

**WSR 18-14-001**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

(Developmental Disabilities Administration)  
[Filed June 20, 2018, 2:48 p.m., effective July 21, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The department is amending chapter 388-845 WAC to align administrative rules with the waiver application approved by the Centers for Medicare and Medicaid Services (CMS). These rules are necessary in order for the developmental disabilities administration (DDA) to provide services approved by CMS and receive federal financial participation. DDA must not authorize waiver services unless they are part of a waiver application approved by CMS; aligning the rules with the approved application maintains client access to waiver services.

Citation of Rules Affected by this Order: New WAC 388-845-0515, 388-845-0520, 388-845-0525, 388-845-1181, 388-845-1182, 388-845-1183, 388-845-1315, 388-845-1316, 388-845-1317, 388-845-1915, 388-845-1916 and 388-845-1917; repealing WAC 388-845-1000, 388-845-1010, 388-845-1015, 388-845-1200, 388-845-1205, 388-845-1210, 388-845-1840, 388-845-1845 and 388-845-1850; and amending WAC 388-845-0001, 388-845-0110, 388-845-0210, 388-845-0215, 388-845-0220, 388-845-0225, 388-845-0230, 388-845-0420, 388-845-0425, 388-845-0500, 388-845-0501, 388-845-0505, 388-845-0506, 388-845-0510, 388-845-0603, 388-845-0660, 388-845-0700, 388-845-0705, 388-845-0710, 388-845-0760, 388-845-0800, 388-845-0820, 388-845-0900, 388-845-0910, 388-845-1150, 388-845-1600, 388-845-1615, 388-845-1620, 388-845-1650, 388-845-1655, 388-845-1660, 388-845-1700, 388-845-1710, 388-845-1810, 388-845-1865, 388-845-1900, 388-845-2000, 388-845-2010, 388-845-2170, and 388-845-3070.

Statutory Authority for Adoption: RCW 71A.12.030.

Other Authority: RCW 71A.12.120, 42 C.F.R. 441 Subpart G.

Adopted under notice filed as WSR 18-07-049 on March 14, 2018.

A final cost-benefit analysis is available by contacting Chantelle Diaz, P.O. Box 45310, Olympia, WA 98504-5310, phone 360-407-1589, fax 360-407-0955, TTY 1-800-833-6388, email Chantelle.Diaz@dshs.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 12, Amended 40, Repealed 9.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 12, Amended 40, Repealed 9.

Date Adopted: June 19, 2018.

Cheryl Strange  
Secretary

**AMENDATORY SECTION** (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

**WAC 388-845-0001 Definitions.** "Aggregate services" means a combination of services subject to the dollar ((~~limits~~) limits) in the basic plus waiver((s)).

"Allocation" means the amount of individual and family services (IFS) waiver funding available to ((the)) a client for a maximum of twelve months.

"CARE" means comprehensive assessment and reporting evaluation.

(("CHBS" means children's intensive in home behavioral support waiver.))

"Client" ((or "person")) means a person who has a developmental disability ((as defined in)) under RCW 71A.10.020(5) and has been determined eligible to receive services ((by)) from the administration under chapter 71A.16 RCW.

"Community crisis stabilization services" or "CCSS" means a state-operated program that provides short-term supports to ((participants who meet specific criteria and)) clients who are in crisis ((and/or)), or who are at risk of hospitalization or institutional placement.

"DDA" means the developmental disabilities administration, of the department of social and health services.

"DDA assessment" refers to the standardized assessment tool ((as defined in)) under chapter 388-828 WAC, used by DDA to measure the support needs of ((persons)) people with developmental disabilities.

"Department" means the department of social and health services (DSHS).

(("EPSDT" means early and periodic screening, diagnosis, and treatment, medicaid's child health component providing a mandatory and comprehensive set of benefits and services for children up to age twenty one as defined in WAC 182-534-0100.))

((Enhanced respite services" means respite care for DDA enrolled children and youth, who meet specific criteria, in a DDA contracted and licensed staffed residential setting.))

"Evidence-based treatment" means the use of physical, mental, and behavioral health interventions for which systematic, empirical research has provided evidence of statistically significant effectiveness as treatments for specific conditions. Alternate terms with the same meaning are evidence-based practice (EBP) and empirically supported treatment (EST).

"Family" means one or more of the following relatives: Spouse or registered domestic partner; natural, adoptive or step parent; grandparent; child; stepchild; sibling; stepsibling; uncle; aunt; first cousin; niece; or nephew.

"Family home" means the residence where you and your family ((member(s))) live.

"Gainful employment" means employment that reflects achievement of or progress towards a living wage.

(("HCBS waivers" means home and community based services waivers.))

"Home" means present or intended place of residence.

"ICF/IID" means an intermediate care facility for individuals with intellectual disabilities.

((IFS waiver" means the individual and family services waiver.))

"Integrated business settings" means a setting that enables participants to either work alongside or interact with individuals who do not have disabilities, or both.

"Integrated settings" mean typical community settings not designed specifically for individuals with disabilities in which the majority of persons employed and participating are individuals without disabilities.

"Legal representative" means a parent of a person who is under eighteen years of age, a person's legal guardian, a person's limited guardian when the subject matter is within the scope of limited guardianship, a person's attorney at law, a person's attorney in fact, or any other person who is authorized by law to act for another person.

"Living wage" means the amount of earned wages needed to enable an individual to meet or exceed his or her living expenses.

"Necessary supplemental accommodation representative" means an individual who receives copies of DDA planned action notices (PANs) and other department correspondence in order to help a client understand the documents and exercise the client's rights. A necessary supplemental accommodation representative is identified by a client of DDA when the client does not have a legal guardian and the client is requesting or receiving DDA services.

"Participant" means a client who is enrolled in a home and community based services waiver program.

"Person-centered service plan((individual support plan" or "ISP))" is a document that identifies your goals and assessed health and welfare needs. Your person-centered service plan((individual support plan)) also indicates the paid services and natural supports that will assist you to achieve your goals and address your assessed needs.

"Primary caregiver" means the person who provides the majority of your care and supervision.

"Provider" means an individual or agency who meets the provider qualifications and is contracted with DSHS to provide services to you.

"Respite assessment" means an algorithm within the DDA assessment that determines the number of hours of respite care you may receive per year if you are enrolled in the basic plus, children's intensive in-home behavioral support, or core waiver.

"SSI" means supplemental security income, an assistance program administered by the federal Social Security Administration for blind, disabled and aged individuals.

"SSP" means state supplementary payment program, a state-paid cash assistance program for certain clients of the developmental disabilities administration.

"State-funded services" means services that are funded entirely with state dollars.

"You" ((or "your")) means the client or participant.

AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

**WAC 388-845-0110 What are ((there limitations)) the limits to the waiver services you ((can)) may receive? ((There are limitations)) The following limits apply to the waiver services((. Those are)) you may receive:**

(1) A service must be available in your waiver and address an unmet need identified in your person-centered service plan.

(2) ((The need for a service must be identified and authorized in your person-centered service plan/individual support plan.

(3)) Behavioral health stabilization services may be added to your person-centered service ((plan/individual support)) plan after the services ((are)) have been provided.

((4)) (3) Waiver services are limited to services required to prevent ((ICF/IID)) placement in an intermediate care facility for individuals with intellectual disabilities (ICF/IID).

((5)) (4) The daily cost of your waiver services ((cannot)) must not exceed the average daily cost of care in an ICF/IID.

((6)) (5) Waiver services ((cannot)) must not replace or duplicate other available paid or unpaid supports or services. Before DDA will cover a service through waiver services, you must first ((pursue benefits available to you)) request and be denied all applicable services through private insurance, medicare, the medicaid state plan, ((or)) and other resources.

((7)) (6) Waiver funding ((cannot)) must not be authorized for treatments determined by DSHS to be experimental or investigational under WAC 182-531-0050.

((8)) (7) For the individual and family services (IFS) and basic plus waivers, services must not exceed the yearly limits specified in these programs for specific services or combinations of services.

((9)) (8) Your choice of qualified providers and services is limited to the most cost-effective option that meets your ((health and welfare needs)) unmet need identified in your person-centered service plan.

((10)) (9) Services provided out-of-state, other than in recognized bordering cities, are limited to respite care and personal care during vacations of not more than thirty consecutive days.

((11)) (10) You may receive services in a recognized out-of-state bordering city ((on the same basis as in-state services.

(b) The only recognized bordering cities per)) under WAC 182-501-0175 ((are:

(i) Coeur d'Alene, Moscow, Sandpoint, Priest River, and Lewiston, Idaho; and

(ii) Portland, The Dalles, Hermiston, Hood River, Rainier, Milton Freewater, and Astoria, Oregon)).

(11) Other out-of-state waiver services require an approved exception to rule before DDA ((can)) will authorize payment.

(12) Waiver services do not cover:

(a) Copays((,));

(b) Deductibles((,));

(c) Dues((,));

(d) Membership fees((,)); or

(e) Subscriptions.

(13) Waiver services do not cover a product unless the product is:

- (a) Necessary to meet a basic health and safety need; and
- (b) The least restrictive means for meeting that need.

**AMENDATORY SECTION** (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

**WAC 388-845-0210 What ((is the scope of)) services ((for)) are available under the basic plus waiver? The following services are available under the basic plus waiver:**

((BASIC PLUS WAIVER))	SERVICE((S))	YEARLY LIMIT
	AGGREGATE SERVICES: ((Behavior support and consultation)) <u>Chemical extermination of cimex lectularius (bedbugs)</u> Community guide Environmental adaptations  Occupational therapy Physical therapy <u>Positive behavior support and consultation</u> Skilled nursing Specialized medical equipment((/)) <u>and supplies</u> Specialized psychiatric services Speech, hearing, and language services Staff(/) <u>and family consultation and training</u> Transportation Wellness education	((May)) <u>Total costs must not exceed (((\$6192)) six thousand one hundred ninety-two dollars per year ((on any combination of these services)) per participant</u>
	EMPLOYMENT SERVICES: ((Prevocational services)) <u>Individual technical assistance</u> ((Supported employment)) <u>Prevocational services</u> ((Individual technical assistance)) <u>Supported employment</u>	Limits ((are)) determined by DDA assessment and employment status; no new enrollment in prevocational services after September 1, 2015

((BASIC PLUS WAIVER))	SERVICE((S))	YEARLY LIMIT
	Community ((access)) inclusion	Limits ((are)) determined by DDA assessment
	BEHAVIORAL HEALTH STABILIZATION SERVICES: ((Behavior support and consultation)) Behavioral health crisis diversion bed services <u>Positive behavior support and consultation</u> Specialized psychiatric services	Limits determined by a behavioral health professional or DDA
	Personal care	Limits determined by the CARE tool used as part of the DDA assessment
	Respite care	Limits ((are)) determined by ((the)) DDA assessment
	((Sexual deviancy evaluation)) <u>Risk assessment</u>	Limits ((are)) determined by DDA
	Emergency assistance is only for basic plus waiver aggregate services	(((\$6000)) <u>Six thousand dollars per year; preauthorization required</u>

**AMENDATORY SECTION** (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

**WAC 388-845-0215 What ((is the scope of)) services ((for the)) are available under the core waiver? (1) The following services are available under the core waiver:**

((CORE WAIVER))	SERVICES	YEARLY LIMIT
	Behavior support and consultation Community guide Community transition Environmental adaptations	Determined by the person-centered service plan/individual support plan, not to exceed the average cost of an ICF/IID for any combination of services

((CORE WAIVER	SERVICES	YEARLY LIMIT	SERVICE	YEARLY LIMIT
	Occupational therapy Physical therapy Sexual deviancy evaluation <u>Skilled nursing</u> Specialized medical equipment/supplies Specialized psychiatric services Speech, hearing and language services <u>Staff/family consultation and training</u> <u>Transportation</u> <u>Wellness education</u> <u>Residential habilitation</u>		<u>Chemical extermination of cimex lectularius (bedbugs)</u> <u>Community guide</u> <u>Community transition</u> <u>Environmental adaptions</u> <u>Occupational therapy</u> <u>Physical therapy</u> <u>Positive behavior support and consultation</u> <u>Residential habilitation</u> <u>Risk assessment</u> <u>Skilled nursing</u> <u>Specialized medical equipment and supplies</u> <u>Specialized psychiatric services</u> <u>Speech, hearing, and language services</u> <u>Staff and family consultation and training</u> <u>Transportation</u> <u>Wellness education</u>	
	<u>Community access</u> <u>Employment services</u>  <u>Prevocational services</u> <u>Supported employment</u> <u>Individualized technical assistance</u>	<u>Limits are determined by DDA assessment</u> <u>Limits are determined by DDA assessment and employment status; no new enrollment in prevocational services after September 1, 2015</u>	<u>EMPLOYMENT SERVICES:</u> <u>Individualized technical assistance</u> <u>Prevocational services</u> <u>Supported employment</u> <u>Community inclusion</u>	<u>Determined by the person-centered service plan</u>
	<u>BEHAVIORAL HEALTH STABILIZATION SERVICES:</u> <u>Behavior support and consultation</u> <u>Behavioral health crisis diversion bed services</u> <u>Specialized psychiatric services</u>	<u>Limits determined by a behavioral health professional or DDA</u>	<u>BEHAVIORAL HEALTH STABILIZATION SERVICES:</u> <u>Behavioral health crisis diversion bed services</u>	<u>Limits determined by DDA assessment and employment status; no new enrollment in prevocational services after September 1, 2015</u>
	<u>Respite care</u>	<u>Limits are determined by the DDA assessment))</u>		<u>Limits determined by a behavioral health professional or DDA</u>

SERVICE	YEARLY LIMIT
<u>Positive behavior support and consultation</u>	
<u>Specialized psychiatric services</u>	
<u>Respite care</u>	<u>Limits determined by DDA assessment</u>

(2) A participant's core waiver services are subject to additional limits under this chapter.

(3) The total cost of a participant's core waiver services must not exceed the average cost of care at an intermediate care facility for individuals with intellectual disabilities (ICF/IID).

**AMENDATORY SECTION** (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

**WAC 388-845-0220 What ((is the scope of)) services ((for)) are available under the community protection waiver? (1) The following services are available under the community protection waiver:**

((COMMUNITY PROTECTION WAIVER))	SERVICE((S))	YEARLY LIMIT
	((Behavior support and consultation)) <u>Chemical extermination of cimex lectularius (bed-bugs)</u>	Determined by the person-centered service plan((individual support plan, not to exceed the average cost of an ICF/IID for any combination of services))
	Community transition	
	Environmental adaptations	
	Occupational therapy	
	Physical therapy	
	((Sexual deviancy evaluation)) <u>Positive behavior support and consultation</u>	
	<u>Residential habilitation</u>	
	<u>Risk assessment</u>	
	Skilled nursing	
	Specialized medical equipment and supplies	
	Specialized psychiatric services	
	Speech, hearing, and language services	

((COMMUNITY PROTECTION WAIVER))	SERVICE((S))	YEARLY LIMIT
	Staff((A)) and family consultation and training	
	Transportation	
	((Residential habilitation))	
	<u>EMPLOYMENT SERVICES:</u>	Limits determined by DDA assessment and employment status; no new enrollment in prevocational services after September 1, 2015
	((Prevocational services)) Individual technical assistance	
	((Supported employment)) Prevocational services	
	((Individual technical assistance)) Supported employment	
	BEHAVIORAL HEALTH STABILIZATION SERVICES:	Limits determined by a behavioral health professional or DDA
	((Behavioral support and consultation))	
	Behavioral health crisis diversion bed services	
	<u>Positive behavior support and consultation</u>	
	Specialized psychiatric services	

(2) A participant's community protection waiver services are subject to additional limits under this chapter.

(3) The total cost of a participant's community protection waiver services must not exceed the average cost of care at an intermediate care facility for individuals with intellectual disabilities (ICF/IID).

AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

**WAC 388-845-0225 What ((is the scope of)) services ((for)) are available under the children's intensive in-home behavioral support (CIIBS) waiver?** (1) The following services are available under the children's intensive in-home behavioral support (CIIBS) waiver:

((CHBS Waiver))	((Services)) SERVICE	YEARLY LIMIT
	<u>((• Behavior support and consultation))</u> <u>Assistive technology</u> <u>((• Staff/family consultation and training</u> <u>•)) Environmental adaptations</u> <u>((• Occupational therapy</u> <u>• Physical therapy</u> <u>• Sexual deviancy evaluation</u> <u>•)) Nurse delegation</u> <u>Positive behavior support and consultation</u> <u>Specialized clothing</u> <u>((•)) Specialized medical equipment((•)) and supplies</u> <u>Staff and family consultation and training</u> <u>((• Specialized psychiatric services</u> <u>• Speech, hearing and language services</u> <u>• Transportation</u> <u>• Assistive technology</u> <u>•)) Therapeutic equipment and supplies</u> <u>((• Specialized nutrition and clothing))</u> <u>Transportation</u> <u>((•)) Vehicle modifications</u>	Determined by the person-centered service plan((individual support plan)). Total cost of waiver services ((cannot)) must not exceed the average cost of (( <u>\$4,000</u> )) <u>four thousand dollars</u> per month per participant.
	Respite care	Limits determined by the DDA assessment. Costs are included in the total average cost of (( <u>\$4000</u> )) <u>four thousand dollars</u> per month per participant for all waiver services.

((CHBS Waiver))	((Services)) SERVICE	YEARLY LIMIT
	<u>BEHAVIORAL HEALTH STABILIZATION SERVICES:</u> Behavioral ((support and consultation)) <u>health crisis diversion bed services</u> <u>Positive behavior support and consultation</u> <u>((Specialized psychiatric services))</u>	Limits determined by behavioral health ((specialist)) professional or DDA
	<u>Risk assessment</u>	Limits determined by DDA

(2) A participant's CIIBS waiver services are subject to additional limits under this chapter.

AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

**WAC 388-845-0230 What ((is the scope of)) services ((for)) are available under the individual and family services (IFS) waiver?** (1) ((IFS waiver)) The following services ((include)) are available under the individual and family services (IFS) waiver:

((IFS Waiver))	((Services)) SERVICE	YEARLY LIMIT
	<u>((•)) Assistive technology</u> <u>((• Behavior support and consultation</u> <u>•)) Community engagement</u> <u>((• Staff/family consultation and training</u> <u>•)) Environmental adaptions</u> <u>((•)) Occupational therapy</u> <u>((•)) Peer mentoring</u> <u>Person-centered plan facilitation</u> <u>Physical therapy</u> <u>((• Sexual deviancy evaluation (paid for outside of annual allocation))</u> <u>• Nurse delegation</u> <u>• Peer mentoring</u> <u>• Person centered plan facilitation</u>	Total cost of waiver services ((cannot)) must not exceed annual allocation determined by the person-centered service plan((ISP)).

((IFS Waiver))	((Services)) SERVICE	YEARLY LIMIT
	<p><b>•) Positive behavior support and consultation</b>            Respite care  <b>Skilled nursing</b>  <b>((•)) Specialized clothing</b>            • Specialized medical equipment  <b>((•)) and supplies</b>  <b>((•)) Specialized nutrition</b>  <b>((•)) Specialized psychiatric services</b>  <b>((•)) Speech, hearing, and language services</b>  <b>Staff and family consultation and training</b>  <b>((•)) Supported parenting services</b>  <b>((•)) Therapeutic equipment and supplies</b>            Transportation  <b>((•)) Therapeutic equipment and supplies</b>  <b>((•)) Vehicle modifications</b>  <b>((•)) Wellness education</b></p>	
	<u>Risk assessment</u>	<u>Limits determined by DDA. Costs are excluded from the annual allocation.</u>
	<p><b>((•)) BEHAVIORAL HEALTH STABILIZATION SERVICES:</b>  <b>((•)) Behavioral</b>  <b>Positive behavior support and consultation</b>  <b>((•)) Specialized psychiatric services</b></p>	<u>Limits determined by behavioral health ((specialist)) professional or DDA. Costs are excluded from the annual allocation.</u>

(2) Your IFS waiver services annual allocation is based upon the DDA assessment ((described in)) under chapter

388-828 WAC. The DDA assessment determines your service level and annual allocation based on your assessed need. Annual allocations are as follows:

- (a) Level 1 = one thousand two hundred dollars;
- (b) Level 2 = one thousand eight hundred dollars;
- (c) Level 3 = two thousand four hundred dollars; or
- (d) Level 4 = three thousand six hundred dollars.

AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

**WAC 388-845-0420 Who ((is)) may be a qualified provider of assistive technology?** The provider of assistive technology must be an entity contracted with DDA to provide assistive technology, or one of the following professionals contracted with DDA and ((duly)) licensed, registered, or certified ((to provide this service)) as:

- (1) ((Occupational therapist)) An audiologist;
- (2) ((Physical therapist)) A behavior health professional;
- (3) ((Speech and language pathologist)) A certified music therapist;
- (4) ((Certified music therapist)) An occupational therapist;
- (5) ((Recreation therapist registered in Washington and certified by the national council for therapeutic recreation)) A physical therapist;
- (6) ((Audiologist)) A rehabilitation counselor;
- (7) ((Behavior specialist)) A speech and language pathologist; or
- (8) ((Rehabilitation counselor)) A speech therapist.

AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

**WAC 388-845-0425 Are there limits to the assistive technology you ((can)) may receive? The assistive technology you may receive has the following limits:**

(1) Clinical and support needs for assistive technology are identified in your DDA assessment and documented in the person-centered service ((plan/individual support)) plan.

(2) ((Assistive technology may be authorized as a waiver service by obtaining an initial denial of funding or information showing that the technology is not covered by medicaid or private insurance.

(3) The department does not pay for experimental technology.

(4) The department)) DDA requires your treating professional's written recommendation regarding your need for the technology. This recommendation must take into account that:

(a) The treating professional has personal knowledge of and experience with the requested assistive technology; and

(b) The treating professional has recently examined you, reviewed your medical records, and conducted a functional evaluation of your use of the equipment and determined its effectiveness in meeting your identified need.

((S)) (3) Assistive technology requires prior approval by the DDA regional administrator or designee.

((6)) (4) DDA may require a written second opinion from a ((department)) DDA-selected profes-

sional ((that meets the same criteria in subsection (4) of this section)).

((7)) (5) The dollar amounts for your individual and family services (IFS) waiver annual allocation limit the amount of assistive technology you are authorized to receive.

(6) Assistive technology excludes any item that is for recreational or diversion purposes such as a television, cable, or DVD player.

**AMENDATORY SECTION** (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-0500 What is positive behavior support and consultation?** (1) Positive behavior support and consultation may be provided to persons on any of the DDA HCBS waivers and includes the development and implementation of programs designed to support waiver participants using:

(a) Individualized strategies for effectively relating to caregivers and other people in the waiver participant's life; and

(b) Direct interventions with the person to decrease aggressive, destructive, and sexually inappropriate or other behaviors that compromise their ability to remain in the community (i.e., training, specialized cognitive counseling, conducting a functional assessment, and development and implementation of a positive behavior support plan).

(2) Positive behavior support and consultation may also be provided as a behavioral health stabilization service in accordance with WAC 388-845-1150 through 388-845-1160.

**AMENDATORY SECTION** (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-0501 What is included in positive behavior support and consultation for the children's intensive in-home behavioral support (CIIBS) waiver?** (1) In addition to the definition in WAC 388-845-0500, positive behavior support and consultation in the children's intensive in-home behavioral support (CIIBS) waiver must include ((the following characteristics)):

(a) ((Treatment must be)) Treatments that are evidence based, driven by individual outcome data, and consistent with DDA's positive behavior support guidelines as outlined in contract;

(b) ((The following written components will be developed in partnership with the child and family by a behavior specialist as defined in WAC 388-845-0506:))

(i) Functional behavioral assessment; and

(ii) Positive behavior support plan based on functional behavioral assessment.

(c) Treatment goals must be) Objective and measurable((. The)) treatment goals ((must relate to an increase in skill development and a resulting)) that decrease ((in)) challenging behaviors ((that impede)) and increase skills that promote quality of life for the child and family; ((and

(d)) (c) Behavioral support strategies ((will be)) individualized and coordinated across all environments, such as home, school, and community, in order to promote a consistent approach among all involved persons; and

(d) The following components developed with the child, family, and a behavior specialist under WAC 388-845-0506:

(i) A functional behavioral assessment; and

(ii) A positive behavior support plan based on the functional behavioral assessment.

(2) Positive behavior support and consultation in the CIIBS waiver may ((also)) include ((the following components)):

(a) ((Behavioral technicians (as defined in WAC 388-845-0506) may implement)) Positive behavior support plans implemented by a behavioral technician under WAC 388-845-0506, which may include 1:1 behavior interventions and skill development activity((.));

(b) ((Positive behavior support plans may include)) Recommendations ((by either a music and/or recreation therapist, as defined in)) from a music therapist under WAC 388-845-2005; and

(c) Recommendations from a recreation therapist under WAC 388-845-2005.

**AMENDATORY SECTION** (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

**WAC 388-845-0505 Who is a qualified provider of positive behavior support and consultation?** Under the basic plus, core, ((CP)) community protection (CP), and individual and family services (IFS) waivers, the provider of positive behavior support and consultation must be one of the following professionals contracted with DDA and duly licensed, registered, or certified ((to provide this service)) as a:

(1) Marriage and family therapist;

(2) Mental health counselor;

(3) Psychologist;

(4) Sex offender treatment provider;

(5) Social worker;

(6) Registered nurse (RN) or licensed practical nurse (LPN);

(7) Psychiatrist;

(8) Psychiatric advanced registered nurse practitioner (ARNP);

(9) Physician assistant working under the supervision of a psychiatrist;

(10) Counselor((s)) registered or certified ((in accordance with the requirements of)) under chapter 18.19 RCW;

(11) Polygrapher; or

(12) State-operated positive behavior support agency ((limited)) qualified to provide behavioral health stabilization services.

**AMENDATORY SECTION** (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-0506 Who is a qualified provider of positive behavior support and consultation for the children's intensive in-home behavioral support((s)) (CIIBS) waiver?** (())) Under the children's intensive in-home behavioral support (CIIBS) waiver, providers of positive behavior support and consultation must be contracted with DDA to provide CIIBS intensive services as ((one of the following two provider types)) a:

((a)) (1) Master's or PhD-level behavior specialist((g)) who is licensed, certified, or ((certified)) registered to provide behavioral assessments, interventions, and training; or

((b)) (2) Behavior technician, licensed, certified, or ((certified)) registered to provide behavioral intervention and training((, following the lead of)) under the supervision of the behavior specialist.

((2) Providers of behavior support and consultation per WAC 388-845-0505 may be utilized to provide counseling and/or therapy services to augment the work of the CHBS intensive service provider types.))

#### AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

**WAC 388-845-0510 Are there limits to the positive behavior support and consultation you ((ear)) may receive?** (1) Clinical and support needs for positive behavior support and consultation ((are)) must be identified in your DDA assessment and documented in the person-centered service ((plan/individual support)) plan.

(2) DDA ((and the treating professional will)) determines the ((need and)) amount of ((service)) positive behavior support and consultation you ((will)) may receive((, subject to the limitations in subsection (3) of this section)) based on your needs and information from your treating professional.

(3) The dollar amounts for aggregate services in your basic plus waiver or the dollar amounts in the annual allocation for the ((IFS)) individual and family services (IFS) waiver limit the amount of service unless provided as a behavioral health stabilization service.

(4) DDA ((reserves the right to)) may require a second opinion from a ((department)) DDA-selected provider.

(5) Positive behavior support and consultation not provided as a behavioral health stabilization service requires prior approval by the DDA regional administrator or designee for the following waivers:

(a) Basic plus;

(b) Core;

(c) Children's intensive in-home behavior support (CIIBS); and

(d) IFS.

(6) Positive behavior support and consultation services are limited to services:

(a) Consistent with waiver objectives of avoiding institutionalization; and

(b) Not otherwise covered under the medicaid state plan.

#### NEW SECTION

**WAC 388-845-0515 What is chemical extermination of bedbugs?** (1) Chemical extermination of cimex lectularius (bedbugs) is professional chemical extermination of bedbugs.

(2) DDA covers professional chemical extermination of bedbugs in your primary residence if you:

(a) Receive residential habilitation services; or

(b) Live in a private house or apartment for which you are financially responsible.

#### NEW SECTION

**WAC 388-845-0520 Who are qualified providers of chemical extermination of bedbugs?** A qualified chemical extermination provider must be:

(1) Licensed as a chemical pesticide applicator by the Washington state department of agriculture; and

(2) Contracted with DDA to provide chemical extermination of bedbugs.

#### NEW SECTION

**WAC 388-845-0525 Are there limits to the chemical extermination of bedbugs services I may receive?** (1) Chemical extermination services covers only:

(a) The assessment or inspection by the qualified provider;

(b) Application of chemical-based pesticide; and

(c) One follow-up visit.

(2) Chemical extermination of bedbugs is limited to two treatments per plan year.

(3) Chemical extermination of bedbugs excludes:

(a) Lodging during the chemical extermination process; and

(b) Preparatory housework associated with the extermination process.

(4) DDA does not cover chemical extermination of bedbugs for a participant who lives with their family.

(5) DDA requires prior approval by the regional administrator or designee for chemical extermination of bedbugs.

#### AMENDATORY SECTION (Amending WSR 17-12-002, filed 5/24/17, effective 6/24/17)

**WAC 388-845-0603 Who is eligible to receive community ((access)) inclusion services?** You are eligible for community ((access)) inclusion services if you are enrolled in the basic plus or core waivers and:

(1) You are sixty-two or older; or

(2) You meet age requirements under WAC 388-845-2110(1) and((g));

(a) You have participated in ((the)) developmental disabilities ((administration (DDA's))) administration (DDA) supported employment services for nine consecutive months; or

(b) DDA has determined that you are exempt from the nine-month DDA supported employment service requirement because:

(i) Your medical or behavioral health records document a condition that prevents you from completing nine consecutive months of DDA supported employment services; or

(ii) You were referred to and were available for DDA supported employment services, but the service was not delivered within ninety days of the referral.

#### AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

**WAC 388-845-0660 Are there ((limitations)) limits to the community engagement services you ((ear)) may receive?** (1) ((Support needs for)) Community engagement

services are limited to ((these)) the support needs identified in your DDA assessment and documented in ((the)) your person-centered service plan((individual support plan)).

(2) The dollar amounts in the annual allocation for the individual and family services (IFS) waiver limit the amount of community engagement services you ((can)) may receive((;)).

(3) Community engagement services are limited to the community where you live((;and)).

(4) Community engagement services do not ((pay for the following costs)) cover:

- (a) Membership fees or dues;
- (b) Equipment related to activities; or
- (c) The cost of any activities.

**AMENDATORY SECTION** (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-0700 What ((is-a)) are community guide services?** Community guide services ((increases)) increase access to informal community supports. Community guide services are short-term ((and)) services designed to develop creative, flexible, and supportive community resources for individuals with developmental disabilities to meet a goal identified in the waiver participant's person-centered service plan. ((This service is)) These services are available in basic plus and core waivers.

**AMENDATORY SECTION** (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-0705 Who ((is)) may be a qualified provider of community guide services?** Any individual or agency contracted with DDA as a ((u))community guide((u)) is) may be qualified to provide ((this)) community guide services.

**AMENDATORY SECTION** (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-0710 Are there ((limitations)) limits to the community guide services I ((can)) may receive?** (1) You ((may)) must not receive community guide services if you are receiving residential habilitation services ((as defined in)) under WAC 388-845-1500 ((because your residential provider can meet this need)).

(2) ((The dollar limitations for aggregate services in your basic plus waiver limit the amount of service)) You may receive community guide services up to the aggregate services dollar amount available to you in your basic plus waiver.

**AMENDATORY SECTION** (Amending WSR 08-20-033, filed 9/22/08, effective 10/23/08)

**WAC 388-845-0760 Are there ((limitations)) limits to community transition services I can receive?** ((+)) Community transition services ((do)) does not include:

(a) Diversional or recreational items such as televisions, cable TV access, VCRs, MP3, CD, or DVD players; (and

((+))) (2) Computers, if primarily used as a ((diversional)) diversion or for recreation((;)); or  
((+))) (3) Rent assistance ((is not available as a community transition service)).

**Reviser's note:** The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

**AMENDATORY SECTION** (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-0800 What is emergency assistance?**

Emergency assistance is a temporary increase to the yearly basic plus waiver aggregate dollar limit when additional waiver aggregate services are required to prevent ((ICF/IID)) placement in an intermediate care facility for individuals with intellectual disabilities (ICF/IID).

**AMENDATORY SECTION** (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

**WAC 388-845-0820 Are there limits to your use of emergency assistance?** All of the following ((limitations)) limits apply to ((your use of)) the emergency assistance you may receive:

(1) Prior approval by the DDA regional administrator or designee is required based on a reassessment of your person-centered service ((plan/individual support)) plan to determine the need for emergency services;

(2) Payment authorizations are reviewed every thirty days and ((cannot)) must not exceed six thousand dollars per twelve months based on the effective date of your current person-centered service ((plan/individual support)) plan;

(3) Emergency assistance services are limited to the following basic plus waiver aggregate services((;and)):

- (a) Community guide;
- (b) Environmental adaptations;
- (c) Occupational therapy;
- (d) Physical therapy;
- (e) Positive behavior support and consultation;
- (f) Skilled nursing;
- (g) Specialized medical equipment and supplies;
- (h) Specialized psychiatric services;
- (i) Speech, hearing, and language services;
- (j) Staff and family consultation and training, which excludes individual and family counseling;
- (k) Transportation; and

(4) Emergency assistance may be used for interim services until:

(a) The emergency situation has been resolved; ((or))

(b) You are transferred to alternative supports that meet your assessed needs; or

(c) You are transferred to an alternate waiver that provides the service you need.

**AMENDATORY SECTION** (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

**WAC 388-845-0900 What are environmental adaptations?** (1) ((Environmental adaptations are available in all of the DDA HCBS waivers.)) Environmental adaptations

provide physical adaptations within the physical structure of the home, or outside the home to provide access to the home. The need must be identified by the DDA assessment and the participant's person-centered service plan((/individual support plan)).

(2) Environmental adaptions are available in all of the DDA HCBS waivers.

(3) An environmental adaption must ((meet one or more of the following criteria)) be necessary to:

(a) ((Ensure)) Maintain the health, welfare, and safety of the ((individual or caregiver)) participant, the participant's caregiver, or both; or

(b) ((Enable the individual who would otherwise require institutionalization to function with greater)) Increase the participant's independence in the home.

((2)) Environmental adaptations may include the purchase and installation of the following:

(a) Portable and fixed ramps;

(b) Grab bars and handrails;

(c) Widening of doorways, addition of pocket doors, or removal of nonweight bearing walls for accessibility;

(d) Prefabricated roll-in showers and bathtubs;

(e) Automatic touchless or other adaptive faucets and switches;

(f) Automatic turn-on and shut-off adaptations for appliances in the home;

(g) Adaptive toilets, bidets, and sinks;

(h) Specialized electrical or plumbing systems necessary for an approved modification or medical equipment and supplies necessary for either the individual's welfare and safety or caregiver's safety, or both;

(i) Repairs to environmental adaptations due to wear and tear if necessary for client safety and are more cost effective than replacement of the adaptation;

(j) Debris removal necessary due to hoarding behavior addressed in the participant's positive behavior support plan (PBSP);

(k) Lowering or raising of counters, sinks, cabinets, or other modifications for accessibility;

(l) Reinforcement of walls and replacement of hollow doors with solid core doors;

(m) Replacement of windows with nonbreakable glass;

(n) Adaptive hardware and switches;

(o) Ceiling mounted lift systems or portable lift systems; and

(p) Other adaptations that meet identified needs.

(3)) (4) Only the children's intensive in-home behavioral support (CIIBS) and individual and family services (IFS) waivers ((only)) may include adaptations to the home necessary to prevent property destruction caused by the participant's behavior, as addressed in the participant's positive behavior support plan.

AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

**WAC 388-845-0910 What ((limitations)) limits apply to environmental adaptations?** The following service ((limitations)) limits apply to environmental adaptations:

(1) Clinical and support needs for environmental adaptations ((are)) must be identified in the waiver participant's DDA assessment and documented in the person-centered service ((plan/individual support)) plan.

(2) Environmental adaptations require prior approval by the DDA regional administrator or designee and must be supported by itemized and written bids from licensed contractors. For an adaptation that costs:

(a) One ((bid is required for adaptations costing one)) thousand five hundred dollars or less((. Two bids are required for adaptations costing)), one bid is required:

(b) More than one thousand five hundred dollars and equal to or less than five thousand dollars((. Three bids are required for adaptations costing)), two bids are required; or

(c) More than five thousand dollars, three bids are required.

(3) All bids must include:

(a) The cost of all required permits and sales tax; and  
(b) An itemized and clearly outlined scope of work.

((3))) (4) DDA may require an occupational therapist, physical therapist, or construction consultant to review and recommend an appropriate environmental adaptation statement of work prior to the waiver participant soliciting bids or purchasing adaptive equipment.

((4))) (5) Environmental adaptations ((or improvements)) to the home are excluded if they are of general utility without direct medical or remedial benefit to the individual, such as carpeting, roof repair, or central air conditioning.

((5))) (6) Environmental adaptations must meet all local and state building codes. Evidence of any required completed inspections must be submitted to DDA prior to authorizing payment for work.

((6)) Deteriorated)) (7) The condition of the dwelling or other ((remodeling)) projects in progress in the dwelling may prevent or limit some or all environmental adaptations at the discretion of DDA.

((7))) (8) Location of the dwelling in a flood plain, landslide zone, or other hazardous area may limit or prevent any environmental adaptations at the discretion of DDA.

((8))) (9) Written consent from the dwelling landlord is required prior to starting any environmental adaptations for a rental property. The landlord must not require removal of the environmental adaptations at the end of the waiver participant's tenancy as a condition of the landlord approving the environmental adaptation to the waiver participant's dwelling.

((9))) (10) Environmental adaptations ((cannot)) must not add to the total square footage of the home.

((10))) (11) The dollar amounts for aggregate services in your basic plus waiver or the dollar amount of your annual IFS allocation limit the amount of service you may receive.

((11))) (12) For core, community protection, and CIIBS waivers, annual environmental adaptation costs must not exceed twelve thousand one hundred ninety-two dollars.

(13) Damage repairs under the CIIBS and IFS waivers are subject to the following restrictions:

(a) Limited to the cost of restoration to the original ((condition)) function;

(b) Limited to the dollar amounts of the IFS waiver participant's annual allocation;

(c) Behaviors of waiver participants that resulted in damage to the dwelling must be addressed in a positive behavior support plan prior to the repair of damages; ((and))

(d) Repairs to personal property such as furniture((;)) and appliances((, and normal wear and tear)) are excluded: and

(e) Repairs due to normal wear and tear are excluded.

((12)) (14) The following adaptations are not ((included in this service)) covered as an environmental adaption:

(a) Building fences and fence repairs; ((and))

(b) Carpet or carpet replacement;

(c) Air conditioning, heat pumps, generators, or ceiling fans; and

(d) Roof repair or siding.

**AMENDATORY SECTION** (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

**WAC 388-845-1150 What are behavioral health stabilization services?** (1) Behavioral health stabilization services assist persons who are experiencing a behavioral health crisis(( or meet criteria for enhanced respite or community crisis stabilization services)).

((These)) (2) Behavioral health stabilization services are available in the basic plus, core, children's intensive in-home behavior support (CIIBS), individual and family services (IFS), and community protection waivers ((to individuals determined by)).

(3) A participant may be eligible for behavioral health stabilization services if:

(a) A behavioral health professional((s)) or DDA ((to be)) has determined the participant is at risk of institutionalization or hospitalization w((ho need one or more of the following services));

(b) The participant needs:

((1)) (i) Positive behavior support and consultation;

((2)) (ii) Specialized psychiatric services for people age twenty-one and older; or

((3)) (iii) Behavioral health crisis diversion bed services ((not)) available to participants on the ((IFS)) basic plus, core, CIIBS, and community protection waivers.

**Reviser's note:** RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

#### NEW SECTION

#### **WAC 388-845-1181 What is occupational therapy?**

(1) Occupational therapy is a service provided to improve, maintain, or maximize the waiver participant's abilities for independent functioning and health maintenance.

(2) Occupational therapy is available under the basic plus, community protection, core, and individual and family services waivers.

#### NEW SECTION

**WAC 388-845-1182 Who may be a qualified provider of occupational therapy?** A qualified provider of occupational therapy must:

(1) Be licensed, registered, and certified as required by law;

(2) Be contracted with the developmental disabilities administration to provide occupational therapy; and

(3) Have a core provider agreement with the health care authority.

#### NEW SECTION

**WAC 388-845-1183 Are there limits to occupational therapy?** (1) Occupational therapy is limited to:

(a) Waiver participants age twenty-one or older;

(b) Services identified in your developmental disabilities administration (DDA) assessment and documented in your person-centered service plan;

(c) The dollar amounts for aggregate services in your basic plus waiver or the dollar amounts in the annual allocation for the individual and family services waiver; and

(d) An amount determined by DDA based on your needs and information from your treating professional.

(2) DDA may require a second opinion from a DDA-selected provider.

#### NEW SECTION

**WAC 388-845-1315 What is physical therapy?** (1) Physical therapy is the evaluation and treatment of functional limitations in movement to facilitate self-care and reintegration into the home, community, or work.

(2) Physical therapy is available under the basic plus, community protection, core, and individual and family services waivers.

#### NEW SECTION

**WAC 388-845-1316 Who may be a qualified provider of physical therapy?** A qualified provider of physical therapy must:

(1) Be licensed, registered, and certified as required by law;

(2) Be contracted with the developmental disabilities administration to provide physical therapy; and

(3) Have a core provider agreement with the health care authority.

#### NEW SECTION

**WAC 388-845-1317 Are there limits to physical therapy?** (1) Physical therapy is limited to:

(a) Waiver participants age twenty-one and older;

(b) Services identified in your developmental disabilities administration (DDA) assessment and documented in your person-centered service plan;

(c) The dollar amounts for aggregate services in your basic plus waiver or the dollar amounts in the annual allocation for the individual and family services waiver; and

(d) An amount determined by DDA based on your needs and information from your treating professional.

(2) DDA may require a second opinion from a DDA-selected provider.

#### AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

**WAC 388-845-1600 What is respite care?** (1) Respite care is short-term intermittent care to provide relief for a person(s) who(±

(+) lives with you, ((are)) is your primary care provider(s), and ((are)) is:

(a) Your family member((s who are)) and your paid or unpaid care provider((s));

(b) A nonfamily member((s)) who ((are)) is not paid to provide care for you;

(c) A contracted companion home provider((s)) paid by DDA to provide support to you; or

(d) A licensed children's foster home provider((s)) paid by DDA to provide support to you.

(2) ((This service)) Respite care is available in the:

(a) Basic plus((s)) waiver;

(b) Children's intensive in-home behavioral support (CIIBS((s)))

(c) Core((s)) waiver; and

(d) Individual and family services (IFS) waiver((s)).

#### AMENDATORY SECTION (Amending WSR 17-12-011, filed 5/26/17, effective 6/26/17)

**WAC 388-845-1615 Who may be qualified providers of respite care?** Providers of respite care may be any of the following individuals or agencies contracted with the developmental disabilities administration (DDA) for respite care:

(1) Individuals who meet the provider qualifications under chapter 388-825 WAC;

(2) Homecare((f)) and home health agencies licensed under chapter 246-335 WAC, Part 1;

(3) Licensed and contracted group homes, foster homes, child placing agencies, staffed residential homes, and foster group care homes;

(4) Licensed and contracted adult family homes;

(5) Licensed and contracted adult residential care facilities;

(6) Licensed and contracted adult residential treatment facilities under chapter 246-337 WAC;

(7) Licensed child care centers under chapter 170-295 WAC;

(8) Licensed child day care centers under chapter 170-295 WAC;

(9) Adult day care providers under chapter 388-71 WAC contracted with DDA;

(10) Certified providers under chapter 388-101 WAC when respite is provided within the DDA contract for certified residential services; ((or))

(11) A licensed practical nurse (LPN) or registered nurse (RN) acting within the scope of the standards of nursing conduct or practice under chapter 246-700 WAC and contracted with DDA to provide this service; or

(12) Other DDA contracted providers such as a community center, senior center, parks and recreation, and summer programs.

#### AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

**WAC 388-845-1620 Are there limits to the respite care you ((can)) may receive?** The following ((limitations)) limits apply to the respite care you ((can)) may receive:

(1) For basic plus, core, and the children's intensive in-home behavioral support (CIIBS) waivers, the developmental disabilities administration (DDA) assessment will determine how much respite you ((can)) may receive ((per)) under chapter 388-828 WAC.

(2) For the individual and family services (IFS) waiver, the dollar amount for your annual allocation in your IFS waiver limits the amount of respite care you may receive.

(3) Respite ((cannot)) must not replace:

(a) Day care while your parent or guardian is at work; or

(b) Personal care hours available to you. ((When determining your unmet need, DDA will first consider the personal care hours available to you.))

(4) ((Respite providers have the following limitations and requirements:))

((a))) If you receive respite ((is provided)) in a private home, the home must be licensed to provide respite care unless ((it is)) the ((client's)) home ((or)) is:

(a) Your private home; or

(b) The home of a relative ((of specified degree per)) under WAC 388-825-345((s));

((b)) The respite provider cannot be the spouse of the caregiver receiving respite if the spouse and the caregiver reside in the same residence; and

((e))) (5) If you receive respite from a provider who requires licensure, the respite services are limited to ((these)) activities and age-specific ((services)) criteria contained in the provider's license.

((f))) (6) Your individual respite provider ((may)) must not provide:

(a) Other DDA services for you during your respite care hours; or

(b) DDA paid services to other persons during your respite care hours.

((g))) (7) Your primary caregivers ((may)) must not provide other DDA services for you during your respite care hours.

((h))) (8) If your personal care provider is your parent and you live in your parent's adult family home you ((may)) must not receive respite.

((i))) (9) DDA ((may)) must not pay for ((any)) fees ((associated with the respite care; for example,)) - such as a membership ((fees at a recreational facility,)) or insurance fee((s)) - associated with your respite care.

((j))) (10) If you require respite care from a licensed practical nurse (LPN) or a registered nurse (RN), respite services may be authorized ((as skilled nursing services per WAC 388-845-1700)) using an LPN or RN. Respite services are limited to the assessed respite care ((from a)) hours identified in your person-centered service plan. Respite provided

by an LPN or RN requires a prior approval ((per WAC 388-845-1700(2). If you are on the IFS or basic plus waiver, skilled nursing services are limited to the dollar amounts of your basic plus aggregate services or IFS annual allocation per WAC 388-845-0210 and 388-845-0230)) by the regional administrator or designee.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-1650 What ((are sexual deviancy evaluations)) is a risk assessment?** (1) ((Sexual deviancy evaluations)) A risk assessment is a professional evaluation that:

(a) ((Are professional evaluations that assess the)) Assesses a person's needs and the person's level of risk of ((sexual offending or sexual recidivism)) sexual predatory behavior or aggression;

(b) Determines the need for psychological, medical, or therapeutic services; and

(c) Provides treatment recommendations to mitigate any assessed risk.

(2) ((Sexual deviancy evaluations are)) A risk assessment is available in all DDA HCBS waivers.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-1655 Who is a qualified provider of ((sexual deviancy evaluations)) a risk assessment?** The provider of ((sexual deviancy evaluations)) a risk assessment must be a:

(1) ((Be a certified sexual offender treatment provider (SOTP); and)) Licensed psychologist under chapter 246-924 WAC; or

(2) ((Meet the standards contained in)) Certified sexual offender treatment provider (SOTP) and meet requirements under WAC 246-930-030 ((education required prior to certification)) and WAC 246-930-040 ((professional experience required prior to examination)) if the provider is performing a risk assessment for sexually aggressive behavior.

AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

**WAC 388-845-1660 Are there ((limitations)) limits to the ((sexual deviancy evaluations)) risk assessment you ((can)) may receive?** (1) Clinical and support needs for ((sexual deviancy evaluations)) a risk assessment are limited to those identified in your DDA assessment and documented in ((the)) your person-centered service ((plan/individual support)) plan. ((Sexual deviancy evaluations))

(2) A risk assessment must meet ((the standards contained in)) requirements under WAC 246-930-320.

((2)) ((Sexual deviancy evaluations require)) (3) A risk assessment requires prior approval by the DDA regional administrator or designee.

((3)) ((4) The cost((s)) of ((sexual deviancy evaluations do)) a risk assessment does not count toward the:

(a) Dollar limit((s)) for aggregate services in the basic plus waiver((s or the));

(b) Annual allocation in the ((IFS)) individual and family services waiver; or

(c) Monthly average cost limit in the children's intensive in-home behavior support waiver.

AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

**WAC 388-845-1700 What is waiver skilled nursing?**

(1) Waiver skilled nursing ((is continuous)) means long-term, intermittent, ((or part time)) and hourly skilled nursing services consistent with waiver objectives of avoiding institutionalization. ((These))

(2) Waiver skilled nursing services are available in the basic plus, community protection (CP), core, ((IFS, and CP)) and individual and family services (IFS) waivers.

((2)) (3) Waiver skilled nursing services include nurse delegation services((, per)) provided by a registered nurse under WAC 388-845-1170((, provided by a registered nurse, including the initial visit, follow up instruction, and supervisory visits)).

AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

**WAC 388-845-1710 Are there ((limitations)) limits to the skilled nursing services you ((can)) may receive?** The following ((limitations)) limits apply to ((your receipt of)) skilled nursing services you may receive:

(1) Clinical and support needs for skilled nursing services are limited to those identified in your DDA assessment and documented in ((the)) your person-centered service ((plan/individual support)) plan.

(2) Skilled nursing services ((with the exception of)), except for nurse delegation and nursing evaluations, require prior approval by the DDA regional administrator or designee.

(3) ((DDA and the treating professional determine the need for and amount of service)) Skilled nursing hours must not exceed the number of hours determined by the nursing care consultant's skilled nursing assessment.

(4) DDA ((reserves the right to)) may require a second opinion by a ((department)) DDA-selected provider.

(5) The dollar amount for aggregate services in your basic plus waiver or the dollar amount of your annual allocation in your IFS waiver limits the amount of skilled nursing services you may receive.

AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

**WAC 388-845-1810 Are there ((limitations)) limits to ((your receipt of)) the specialized medical equipment and supplies you may receive?** The following ((limitations)) limits apply to ((your receipt of)) the specialized medical equipment and supplies you may receive:

(1) Clinical and support needs for specialized medical equipment and supplies are limited to those identified in ((the waiver participant's)) your DDA assessment and documented in ((the)) your person-centered service plan((/individual support plan)).

(2) Specialized medical equipment and supplies require prior approval by the DDA regional administrator or designee for each authorization.

(3) DDA may require a second opinion by a ((department)) DDA-selected provider.

((Items purchased with waiver funds must be in addition to any medical equipment and supplies furnished under the medicaid state plan.))

((5))) Items must be of direct medical or remedial benefit to ((the individual)) you and necessary as a result of ((the individual's)) your disability.

((6))) ((5) Medications((, prescribed or nonprescribed,)) and vitamins are excluded.

((7))) ((6) The dollar amounts for aggregate services in your basic plus waiver limit the amount of service you may receive.

((8))) ((7) The dollar amounts for your annual allocation in your individual and family services (IFS) waiver limit the amount of service you may receive.

#### AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

**WAC 388-845-1865 Are there ((limitations)) limits to your receipt of specialized clothing?** (1) The following ((limitations)) limits apply to ((your receipt of)) specialized clothing you may receive:

(a) Clinical and support needs for specialized clothing are limited to those identified in your DDA assessment and documented in ((the)) your person-centered service ((plan/individual support)) plan.

(b) ((Specialized clothing may be authorized as a waiver service if the service is not covered by medicaid or private insurance. You must assist the department in determining whether third party payments are available.))

((e)) The department)) DDA requires written documentation from an appropriate health professional regarding your need for the service. This recommendation must take into account that the health professional has recently examined you, reviewed your medical records, and conducted an assessment.

((d)) The department)) ((c) DDA may require a second opinion from a ((department)) DDA-selected provider ((that meets the criteria in subsection (1)(e) of this section)).)

(2) For the IFS waiver, the dollar amount for your annual allocation limits the amount of service you may receive.

(3) You must receive prior approval from the DDA regional administrator or designee to receive specialized clothing.

**Reviser's note:** The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

#### AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

**WAC 388-845-1900 What are specialized psychiatric services?** (1) Specialized psychiatric services are specific to the individual needs of persons with developmental disabilities who are experiencing behavioral health symptoms. These

services are available ((in all DDA HCBS waivers)) to people age twenty-one and older.

(2) ((Service may be any of the following)) Specialized psychiatric services includes:

- (a) Psychiatric evaluation((,));
- (b) Medication evaluation and monitoring((,)); and
- (c) Psychiatric consultation.

((These)) Specialized psychiatric services are also available as a behavioral health stabilization service ((in accordance with)) under WAC 388-845-1150 through 388-845-1160.

#### NEW SECTION

**WAC 388-845-1915 What are speech, hearing, and language services?** (1) Speech, hearing, and language services are services provided to a person with speech, hearing, and language disorders by or under the supervision of a speech pathologist or audiologist.

(2) Speech, hearing, and language services are available under the basic plus, community protection, core, and individual and family services waivers.

#### NEW SECTION

**WAC 388-845-1916 Who may be a qualified provider of speech, hearing, and language services?** To be a qualified provider of speech, hearing, and language services, a person must:

(1) Be licensed, registered, and certified as an audiologist or speech pathologist as required by law or work under the supervision of a qualified speech pathologist or audiologist;

(2) Be contracted with the developmental disabilities administration to provide speech, hearing, and language services; and

(3) Have a core provider agreement with the health care authority.

#### NEW SECTION

**WAC 388-845-1917 Are there limits to the speech, hearing, and language services you may receive?** (1) Speech, hearing, and language services are limited to:

(a) Waiver participants age twenty-one and older;

(b) Services identified in your developmental disabilities administration (DDA) assessment and documented in your person-centered service plan;

(c) The dollar amounts for aggregate services in your basic plus waiver or the dollar amounts in the annual allocation for the individual and family services waiver; and

(d) An amount determined by DDA based on your needs and information from your treating professional.

(2) DDA may require a second opinion from a DDA-selected provider.

#### AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

**WAC 388-845-2000 What is staff((,)) and family consultation and training?** (1) Staff((,)) and family consultation

and training is professional assistance to families or direct service providers to help them better meet the needs of ((the waiver person)) a participant.

((This service)) (2) Staff and family consultation and training is available in all DDA HCBS waivers.

((2)) (3) Staff and family consultation and training is provided to families, direct staff, or personal care providers to meet the specific needs of ((the waiver)) a participant as outlined in the participant's person-centered service plan((individual support plan, including)).

(4) Staff and family consultation and training includes:

- (a) Health and medication monitoring;
- (b) Positioning and transfer;
- (c) Basic and advanced instructional techniques;
- (d) Positive behavior support;
- (e) Augmentative communication systems;
- (f) Diet and nutritional guidance;
- (g) Disability information and education;
- (h) Strategies for effectively and therapeutically interacting with the participant;
- (i) Environmental consultation; and
- (j) For the basic plus, IFS, and CIIBS waivers only, individual and family counseling.

AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

**WAC 388-845-2010 Are there ((limitations)) limits to the ((staff/family)) staff and family consultation and training you ((can)) may receive?** (1) ((Clinical and support needs for staff/family)) Staff and family consultation and training are limited to ((these)) supports identified in your DDA assessment and documented in the person-centered service ((plan/individual support)) plan.

(2) Expenses to the family or provider for room and board or attendance, including registration, at conferences are excluded as a service under ((staff/family)) staff and family consultation and training.

(3) The dollar amounts for aggregate service in your basic plus waiver or the dollar amount of the annual allocation in your individual and family services (IFS) waiver limit the amount of ((staff/family)) staff and family consultation and training you may receive.

(4) Under the basic plus waiver, individual and family counseling is limited to family members who:

- (a) Live with the participant; and
- (b) Have been assaulted by the participant and the assaultive behavior was:
  - (i) Documented in the participant's person-centered service plan; and
  - (ii) Addressed in the participant's positive behavior support plan or therapeutic plan.

AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

**WAC 388-845-2170 Are there ((limitations on)) limits to your receipt of therapeutic equipment and supplies?** The following ((limitations)) limits apply to your receipt of therapeutic equipment and supplies under the children's

intensive in-home behavior support (CIIBS) and individual and family services (IFS) waivers:

((Therapeutic equipment and supplies may be authorized as a waiver service if the service is not covered by Medicaid or private insurance. You must assist the department in determining whether third party payments are available.))

((The department does not pay for experimental equipment and supplies.))

((The department)) DDA requires your treating professional's written recommendation regarding your need for the service. This recommendation must take into account that the treating professional has recently examined you, reviewed your medical records, and conducted a functional evaluation.

((The department)) (2) DDA may require a ((written)) second opinion from a ((department)) DDA-selected professional ((that meets the same criteria in subsection (3) of this section)).

((The dollar amount of your annual allocation in your IFS waiver limits the amount of therapeutic equipment and supplies you are authorized to receive.))

((Therapeutic equipment and supplies requires a prior approval by the DDA regional administrator or designee.))

(5) Therapeutic equipment and supplies excludes non-specialized recreational items such as trampolines, swing sets, and hot tubs.

AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

**WAC 388-845-3070 What happens if you do not sign your person-centered service plan((/individual support plan (ISP)))?** ((If DDA is unable to obtain the necessary signature for an initial assessment, reassessment, or review of your person-centered service plan/individual support plan (ISP), DDA will take one or more of the following actions:))

(1) If ((this)) you do not sign your initial person-centered service plan((/individual support plan is an initial plan)) (PCSP), DDA ((will be unable to)) must not provide waiver services((DDA will not assume consent for an initial plan and will follow the steps described in WAC 388-845-3056 (1) and (3))) to you until you sign the PCSP.

(2) If ((this person-centered service plan/individual support plan)) you do not sign your PCSP and it is a reassessment or review, DDA will:
 

- (a) Continue providing services ((as)) identified in your ((most)) current ((ISP)) PCSP until the end of the ((ten-day advance)) notice period ((as stated in)) under WAC 388-825-105((-)); and

- (b) ((After DDA signs and dates your complete person-centered service plan/individual support plan, DDA will send it)) Return your PCSP to you for your signature.

(3) If you do not return your signed ((ISP to DDA)) PCSP within two months of your ((assessment completion)) reassessment or review, DDA ((will)) must terminate your services.

((If this person-centered service plan/individual support plan is a reassessment or review and you are not able to understand your ISP, DDA will continue your existing services and take the steps described in WAC 388-845-3056.))

- (4) ((You will be provided written notification and appeal rights to this action to implement the new ISP.  
 (5))) Your appeal rights are ((#)) under:  
 (a) WAC 388-845-4000; and  
 (b) WAC 388-825-120 through 388-825-165.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 388-845-1000 What are extended state plan services?
- WAC 388-845-1010 Who is a qualified provider of extended state plan services?
- WAC 388-845-1015 Are there limits to the extended state plan services you can receive?
- WAC 388-845-1200 What are "person-to-person" services?
- WAC 388-845-1205 Who are qualified providers of person-to-person services?
- WAC 388-845-1210 Are there limits to the person-to-person service I can receive?
- WAC 388-845-1840 What is specialized nutrition?
- WAC 388-845-1845 Who are qualified providers of specialized nutrition?
- WAC 388-845-1850 Are there limitations to your receipt of specialized nutrition?

sure or use of the information not only received from, but also provided to or contained in WA-APCD. In WAC 82-75-610 (6)(b), language was added to make clear that notice that a complaint has been closed without action will include the basis for that determination. In WAC 82-75-630(1), to make it clear that the office of financial management (OFM) director would not direct the lead organization, when it is the alleged violator, to do a review of its own contract to determine whether it breached that contract, language was added that the lead would not be directed to do the review if it is the violator and that WA-APCD program director would do the review. In WAC 82-75-630(2), language was added to clarify that demand for the destruction of data includes all WA-APCD data, "whether stand alone or combined with other data, all data products, and derivatives produced from WA-APCD data, ..." and finally in WAC 82-75-635, language was changed to reflect that the OFM director will look at culpability levels in determining the penalty.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 14, Amended 1, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 14, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 14, Amended 1, Repealed 0.

Date Adopted: July 5, 2018.

Roselyn Marcus  
Assistant Director  
Legal and Legislative Affairs

#### WSR 18-15-002 PERMANENT RULES OFFICE OF FINANCIAL MANAGEMENT

[Filed July 5, 2018, 2:44 p.m., effective August 5, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The purpose of the rule is to establish the penalties for the inappropriate disclosure or use of direct patient identifiers, indirect patient identifiers, or proprietary financial information from the Washington all payer claims database (WA-APCD), and the procedures for filing a complaint, investigation and finding of a violation, along with how to appeal a finding of a violation.

Citation of Rules Affected by this Order: New WAC 82-75-600, 82-75-605, 82-75-610, 82-75-615, 82-75-620, 82-75-625, 82-75-630, 82-75-635, 82-75-640, 82-75-645, 82-75-650, 82-75-655, 82-75-660 and 82-75-665; and amending WAC 82-75-030.

Statutory Authority for Adoption: RCW 43.371.070 (1)(h).

Adopted under notice filed as WSR 18-08-030 on March 27, 2018.

Changes Other than Editing from Proposed to Adopted Version: In WAC 82-75-600(1), language was added to make clear that penalties may be imposed for inappropriate disclosure or use of the information not only received from, but also provided to or contained in WA-APCD. In WAC 82-75-610 (6)(b), language was added to make clear that notice that a complaint has been closed without action will include the basis for that determination. In WAC 82-75-630(1), to make it clear that the office of financial management (OFM) director would not direct the lead organization, when it is the alleged violator, to do a review of its own contract to determine whether it breached that contract, language was added that the lead would not be directed to do the review if it is the violator and that WA-APCD program director would do the review. In WAC 82-75-630(2), language was added to clarify that demand for the destruction of data includes all WA-APCD data, "whether stand alone or combined with other data, all data products, and derivatives produced from WA-APCD data, ..." and finally in WAC 82-75-635, language was changed to reflect that the OFM director will look at culpability levels in determining the penalty.

#### AMENDATORY SECTION (Amending WSR 17-22-121, filed 10/31/17, effective 12/1/17)

**WAC 82-75-030 Additional definitions authorized by chapter 43.371 RCW.** The following additional definitions apply throughout this chapter unless the context clearly indicates another meaning.

"Capitation payment" means a payment model where providers receive a payment on a per "covered person" basis, for specified calendar periods, for the coverage of specified health care services regardless of whether the patient obtains care. Capitation payments include, but are not limited to, global capitation arrangements that cover a comprehensive set of health care services, partial capitation arrangements for subsets of services, and care management payments.

"Claim" means a request or demand on a carrier, third-party administrator, or the state labor and industries program for payment of a benefit.

"Coinsurance" means the percentage or amount an enrolled member pays towards the cost of a covered service.

"Copayment" means the fixed dollar amount a member pays to a health care provider at the time a covered service is provided or the full cost of a service when that is less than the fixed dollar amount.

"Data management plan" or "DMP" means a formal document that outlines how a data requestor will handle the WA-APCD data to ensure privacy and security both during and after the project.

"Data policy committee" or "DPC" is the advisory committee required by RCW 43.371.020 (5)(h) to provide advice related to data policy development.

"Data release committee" or "DRC" is the advisory committee required by RCW 43.371.020 (5)(h) to establish a data release process and to provide advice regarding formal data release requests.

"Data submission guide" means the document that contains data submission requirements including, but not limited to, required fields, file layouts, file components, edit specifications, instructions and other technical specifications.

"Data use agreement" or "DUA" means the legally binding document signed by the lead organization and the data requestor that defines the terms and conditions under which access to and use of the WA-APCD data is authorized, how the data will be secured and protected, and how the data will be destroyed at the end of the agreement term.

"Days" means calendar days.

"Deductible" means the total dollar amount an enrolled member pays on an incurred claim toward the cost of specified covered services designated by the policy or plan over an established period of time before the carrier or third-party administrator makes any payments under an insurance policy or health benefit plan.

"Director" means the director of the office of financial management.

"Fee-for-service payment" means a payment model where providers receive a negotiated or payer-specified rate for a specific health care service provided to a patient.

"Health benefits plan" or "health plan" has the same meaning as in RCW 48.43.005.

"Health care" means care, services, or supplies related to the prevention, cure or treatment of illness, injury or disease of an individual, which includes medical, pharmaceutical or dental care. Health care includes, but is not limited to:

(a) Preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care, and counseling, service, assessment, or procedure with respect to the physical or mental condition, or functional status, of an individual or that affects the structure or function of the body; and

(b) Sale or dispensing of a drug, device, equipment, or other item in accordance with a prescription.

"Lead organization" means the entity selected by the office of financial management to coordinate and manage the database as provided in chapter 43.371 RCW.

"Malicious intent" means the person acted willfully or intentionally to cause harm, without legal justification.

"Member" means a person covered by a health plan including an enrollee, subscriber, policyholder, beneficiary of a group plan, or individual covered by any other health plan.

"Office" means the Washington state office of financial management.

"Person" means an individual; group of individuals however organized; public or private corporation, including profit and nonprofit corporations; a partnership; joint venture; public and private institution of higher education; a state, local, and federal agency; and a local or tribal government.

"PFI" means the proprietary financial information as defined in RCW 43.371.010(12).

"PHI" means protected health information as defined in the Health Insurance Portability and Accountability Act (HIPAA). Incorporating this definition from HIPAA, does not, in any manner, intend or incorporate any other HIPAA rule not otherwise applicable to the WA-APCD.

"Subscriber" means the insured individual who pays the premium or whose employment makes him or her eligible for coverage under an insurance policy or member of a health benefit plan.

"WA-APCD" means the statewide all payer health care claims database authorized in chapter 43.371 RCW.

"WA-APCD program director" means the individual designated by the office as responsible for the oversight and management of the operations of the statewide all payer health care claims database authorized in chapter 43.371 RCW.

"Washington covered person" means any eligible member and all covered dependents where the state of Washington has primary jurisdiction, and whose laws, rules and regulations govern the members' and dependents' insurance policy or health benefit plan.

## PENALTIES FOR INAPPROPRIATE DISCLOSURES OR USES

### NEW SECTION

**WAC 82-75-600 Causes for penalties.** (1) The office may impose penalties for the inappropriate disclosure or use of direct patient identifiers, indirect patient identifiers, and proprietary financial information received from, provided to, or contained in the WA-APCD.

(2) Any penalty imposed pursuant to this subchapter and in accordance with RCW 43.371.050 shall be in addition to and does not prevent the assessment of penalties authorized by state or federal law, contract, or court order.

(3) The following definitions apply to WAC 82-75-600 through 82-75-665.

(a) "Inappropriate disclosures" or "uses" are those that are inconsistent or in violation of the requirements in RCW 43.371.050. In addition, inappropriate disclosure or uses also include defamatory or malicious use and disclosure or use and disclosure with the intent to cause harm.

(b) "Protected information" is direct patient identifiers, indirect patient identifiers and proprietary financial information.

### NEW SECTION

**WAC 82-75-605 Alleging a violation.** (1) Any person, as defined in WAC 82-75-030, may bring to the attention of

the lead organization or the office information concerning the inappropriate disclosure or use of protected information as set forth in RCW 43.371.050 and WAC 82-75-600.

(2) The office must conduct an investigation unless it determines that the complaint is without merit or is frivolous, regardless of how the office has received the information that led to that belief, including information derived from any audit conducted by or at the direction of the office.

#### NEW SECTION

**WAC 82-75-610 Complaints.** (1) Any complaint filed pursuant to WAC 82-75-605 must be in writing and include the following information, if known:

(a) The name and contact information of the complainant;

(b) The specific facts supporting the violation alleged, including the dates, and locations for all events upon which the complaint is made;

(c) The facts upon which the complaint is based; and

(d) The name of the individual(s) and organization the complainant believes has committed an inappropriate disclosure or use of protected information and should be subject to penalties.

(2) If sufficient information is provided as required in subsection (1)(b) through (d) of this section, the office will accept the complaint without the complainant's name and contact information. In cases when the name and contact information is not provided, the complainant waives any future contact or notification from the office regarding the complaint.

(3) The complainant must provide additional information if requested by the lead organization or the office.

(4) Complaints alleging the lead organization made inappropriate disclosure or use of protected information must be filed directly with the office. The complaint must contain the information required in subsection (1) of this section. If a complaint of this nature is filed with the lead organization, the lead organization must forward to the office within one business day of receipt, without further review or action.

(5) Regardless of whether the complaint was filed with the office or the lead organization, except as provided by subsection (4) of this section, the lead organization will review the complaint and compile any information it may have related to the complaint. The lead may review the complaint as to whether the facts as presented support the finding of an inappropriate disclosure or use of protected information. The lead organization must forward the complaint, and all supporting documents to the office, including the result of any initial review the lead may have undertaken.

(6) The office must review the information provided by the lead organization pursuant to subsection (5) of this section.

(a) If the office determines that the facts as presented, if true, support the finding of an inappropriate disclosure or use of protected information, the office will conduct an investigation to substantiate the allegations.

(b) If the office determines that the facts as presented, if true, do not support the finding of an inappropriate disclosure or use of protected information, the office will close the com-

plaint without further action. If closed without further action, the notice will include the basis for that determination.

(c) The office may conduct the investigation, or contract with a third party, other than the lead organization or a subcontractor to the lead organization, to conduct the investigation.

(7) The office will notify the complainant in writing and state whether the complaint will be investigated or closed without action.

#### NEW SECTION

**WAC 82-75-615 Investigation.** (1) If the office accepts a complaint and conducts an investigation, the office will notify the person(s) that is the subject of the complaint in writing.

(2) The notice will include the following information:

(a) The factual allegations supporting each alleged inappropriate disclosure or use of protected information violation in terms sufficient to put the persons on notice of the specific reasons for the investigation;

(b) The statutory and administrative code provisions addressing the allegations, if applicable;

(c) A request that the person provide a written response to the allegations including any documents that support the response, and notice that failure to respond will result in the office making a decision without the person's input; and

(d) A directive to cease using or destroy the data received from the WA-APCD until the investigation has been completed and the person is notified that he/she may again use the data provided. The person shall complete an attestation that the person has complied with this directive. A violation of this directive shall be grounds for finding a separate violation of the inappropriate disclosure or use of protected information.

(3) The lead organization and the data vendor shall cooperate with the investigator and timely respond to requests for information or documents during the course of an investigation.

(4) At the conclusion of the investigation, the investigator will issue a report to the WA-APCD program director that includes the following information:

(a) Facts found by the investigator;

(b) Whether the facts support finding inappropriate disclosures or uses of protected information; and

(c) A recommendation to dismiss the complaint with no further action or to issue an order with a penalty, which recommendation may include a penalty amount and any other actions that the office should take as a result of the violation(s).

(5) A finding that the person inappropriately disclosed or used protected information is a violation for purposes of this section. In the case of a continuing inappropriate disclosure or use of protected information, each day of the inappropriate disclosure or use is a separate violation.

#### NEW SECTION

**WAC 82-75-620 Notice of violation and recommended penalty.** (1) If, based on the investigation, the WA-APCD program director determines that the facts support

finding an inappropriate disclosure or use of protected information and imposition of a penalty as set forth in the investigation report, the WA-APCD program director shall notify the alleged violator. The WA-APCD program director shall cause service of the notice of violation and recommended penalty on each alleged violator. The notice shall include the following information:

- (a) Date when the recommended penalty and other actions imposed will take effect, if not appealed;
- (b) Each inappropriate disclosure or use of protected information found and the facts supporting each inappropriate disclosure or use of protected information;
- (c) The recommended penalty, other monetary amounts to be assessed, including the cost of the investigation, and any other action authorized by WAC 82-75-625 and 82-75-630;
- (d) If the person will be prohibited from receiving data from the WA-APCD in the future, the period of the recommended prohibition;
- (e) Notice that each alleged violator may request a hearing in accordance with WAC 82-75-645 to dispute the finding of a violation, the recommended penalty, or both. The notice shall state that if no hearing is requested within thirty days of the date of issuance of the notice, the office shall issue a final, unappealable order.
- (2) In the event the alleged violator or violators do not timely request a hearing, the WA-APCD program director will provide the report and recommendation to the director, who shall issue a final order, which will include the date upon which the order becomes effective.
- (3) The WA-APCD program director shall provide a copy of the investigation report and the notice prepared pursuant to subsection (1) of this section to all data suppliers with protected information identified in the report as having been inappropriately disclosed or used. This notice is separate and in addition to any other notice required by law.

#### NEW SECTION

**WAC 82-75-625 Monetary penalties that may be imposed upon finding a violation of inappropriate disclosures or uses.** (1) If a person has been found to have made inappropriate disclosures or uses of direct patient identifiers, indirect patient identifiers, and proprietary financial information received from the WA-APCD, the director may impose one or more of the following monetary penalties:

- (a) A civil penalty determined pursuant to the criteria and requirements in this chapter;
- (b) Cost, including reasonable investigative costs, that do not exceed the amount of any civil penalty;
- (c) The cost of any audit performed that uncovered the violation, or was conducted as a result of investigating an alleged violation; and
- (d) Up to three times the amount of financial gain received by the alleged violator or financial loss of any person whose protected information was inappropriately disclosed or used.
- (2) The director shall include with the decision regarding the monetary penalty assessment, the director's reasoning for the specific penalty, or lack thereof, that is being assessed.

#### NEW SECTION

**WAC 82-75-630 Nonmonetary penalties that may be imposed upon finding a violation of inappropriate disclosures or uses.** In addition to the monetary penalties set forth in WAC 82-75-625, if a person has been found to have made inappropriate disclosures or uses of direct patient identifiers, indirect patient identifiers, and proprietary financial information received from the WA-APCD, the director may order the following nonmonetary penalties:

- (1)(a) Direct WA-APCD program director to review the contract between the person and lead organization to determine whether the finding is a breach of that contract, and take appropriate action including requiring all WA-APCD data provided to be destroyed, termination of the contract, and seeking damages if the contract has been breached; or
- (b) In lieu of (a) of this subsection, direct the lead organization to review whether the finding is also a breach of any contract between the person and the lead organization, and take appropriate action including requiring all WA-APCD data provided to be destroyed, termination of the contract, and seeking damages if the contract has been breached, unless the lead organization is the violator, in which case (a) of this subsection shall apply.
- (2) Demand the destruction of all WA-APCD data provided, whether stand alone or combined with other data, all data products, and derivatives produced from WA-APCD data, and in the person's custody or contract, including proof of the destruction in the form and manner as prescribed by the office;
- (3) Bar the person from receiving any data from the WA-APCD for a designated period of time; and
- (4) Notify the funding entity of the violation, when the violation involves research funded by another entity, and any other regulatory agency that has oversight over the person or the data that the person requested.

#### NEW SECTION

**WAC 82-75-635 Penalty ranges based on culpability.** (1) In determining the appropriate sanction, including the amount of any civil penalty, the director will consider the level of culpability associated with the violation. The levels of culpability, in the order of less severe to severe, are as follows:

- (a) Did not know. The person did not know and by exercising reasonable diligence, would not have known the violation had occurred.
- (b) Reasonable cause. The person knew, or by exercising diligence should have known, that the violation had taken place, but the person did not act with willful negligence.
- (c) Willful neglect - Corrected. The violation was due to the person's conscious, intentional failure or reckless indifference, and the violation was corrected within thirty days from the date the person knew or with reasonable diligence should have known of the inappropriate disclosure or use.
- (d) Willful neglect - Uncorrected. The violation was due to the person's conscious, intentional failure or reckless indifference, and the violation was not corrected within thirty days from the date the person knew or with reasonable diligence should have known of the inappropriate disclosure or use.

(2) The penalty ranges for each level of culpability and the yearly cap for violations of a similar nature are as follows:

Culpability Category	Penalty Range per Violation	Yearly Cap for Similar Violations
Did not know	\$5,000 - \$100,000	\$2,500,000
Reasonable cause	\$10,000 - \$250,000	\$2,500,000
Willful neglect - Corrected	\$50,000 - \$500,000	\$5,000,000
Willful neglect - Not corrected	\$100,000 - \$1,500,000	\$10,000,000

(3) Violations that involve malicious intent, as that term is defined in WAC 82-75-030, are not subject to the yearly caps set forth in subsection (2) of this section.

(4) The director may assess a penalty outside the penalty ranges set forth in subsection (2) of this section if the person has previously committed the same violation in the same culpability category.

#### NEW SECTION

**WAC 82-75-640 Other factors that may be considered in determining the penalty for a violation of this chapter.** In addition to the culpability category set forth in WAC 82-75-635, to determine the penalty amount, the director may consider the following factors:

(1) The nature and extent of the violation including, but not limited to, the number of persons affected, the duration of the violation, and whether the violation was done with malicious intent.

(2) The nature and extent of the harm resulting from the violation including, but not limited to:

- (a) Whether the violation resulted in physical harm;
- (b) Whether the violation resulted in financial harm;

(c) Whether the violation resulted in harm to a person's reputation;

(d) Whether the violation hindered an individual's ability to obtain health care;

(e) Whether the violation resulted in any other actual or potential harm.

(3) The history of compliance with the statutory, regulatory, and contractual provisions related to prior data release from the WA-APCD including, but not limited to:

(a) Whether the current violation is the same or similar to previous noncompliance;

(b) Whether and to what extent the person has attempted to correct previous noncompliance;

(c) How the person has responded to the complaint, investigation and any assistance provided to correct and mitigate any effect from the violation;

(d) How the person has responded to prior complaints for the same or similar violations including, but not limited to, changes in process or procedures for securing the confidentiality of the protected information, changes in recruitment, retention, or training requirements for employees or contractor with access to protected information.

(4) Any other factor relevant to the violation or the impact of the violation including, but not limited to:

(a) The frequency of incidents and/or duration of the wrongdoing;

(b) Whether there is a pattern or prior history of wrongdoing;

(c) Whether the person has accepted responsibility for the wrongdoing and recognizes the seriousness of violation;

(d) Whether the person paid or agreed to pay any criminal, civil, and administrative liabilities for the improper activity, including any investigative or administrative costs incurred by the government, and has made or agreed to make full restitution;

(e) Whether the person has cooperated fully during the investigation and any administrative action. In determining the extent of cooperation, the director may consider when the cooperation began and whether the person disclosed all known pertinent information;

(f) The kind of positions held by the individuals involved in the wrongdoing;

(g) Whether the person fully investigated the circumstances surrounding the violation and, if so, made the result of the investigation available to the reviewing official, and took appropriate corrective action or remedial measures;

(h) Whether effective standards of conduct and internal control systems were in place at the time the violation occurred;

(i) Whether appropriate disciplinary action was taken against the individuals responsible for the activity that constitutes the violation.

#### NEW SECTION

**WAC 82-75-645 Process to appeal determination of a violation and assessed penalties.** (1) Each person to whom a notice of a violation and recommended penalty is issued may request a hearing to be conducted in accordance with WAC 82-75-655.

(2) The request for a hearing must be submitted to the director in writing within thirty days after receipt of written notification of the notice provided pursuant to WAC 82-75-620. The person requesting a hearing must also provide a copy of the request to the WA-APCD program director.

(3) The request for hearing must be in writing and specify:

(a) The name of the person requesting the hearing and the person's or representative's contact information;

(b) The items, facts, or conclusions in the notice of violation being contested; and

(c) The basis for contesting the penalty, if applicable, including any mitigating factors upon which the person relies and the outcome the requestor is seeking.

#### NEW SECTION

**WAC 82-75-650 Informal dispute resolution prior to a hearing.** (1) The following procedures are available for informal dispute resolution prior to a hearing that may make more elaborate proceedings under the Administrative Procedure Act unnecessary.

(2) Settlements. Any appeal of a notice of violation and recommended penalty before the director or director's designee, for which a hearing has not yet been held, may be resolved by settlement. The respondent shall communicate his or her request to the WA-APCD program director, setting

forth all pertinent facts and the desired remedy. Settlement negotiations shall be informal and without prejudice to rights of a participant in the negotiations.

(3) Stipulations. The WA-APCD program director and respondent may agree to terms of any stipulation of facts, violations, and/or penalty. If a stipulation is reached, the WA-APCD program director shall prepare the stipulation for presentation to the director.

(a) Any proposed stipulation shall be in writing and signed by each party to the stipulation or his or her representative. The WA-APCD program director shall sign for the office. Any stipulation shall be provided no later than three business days preceding the hearing.

(b) The director has the option of accepting, rejecting, or modifying the proposed stipulation or asking for additional facts to be presented. If the director accepts the stipulation or modifies the stipulation with the agreement of the parties, the director shall enter an order in conformity with the terms of the stipulation. If the director rejects the stipulation or one or both of the parties does not agree to the director's proposed modifications to the stipulation, then the hearing shall be scheduled and held.

(4) Informal dispute resolution negotiations shall be informal and without prejudice to the rights of the participants.

#### NEW SECTION

**WAC 82-75-655 Hearing.** (1) The director may conduct the hearing or delegate to an individual within the office or to an administrative law judge pursuant to chapter 34.12 RCW the authority to conduct the hearing and prepare a proposed decision. The WA-APCD program director, on behalf of the office, shall be the petitioner in the hearing, and the requestor shall be the respondent.

(2) The WA-APCD program director shall have the burden of proving the basis for the finding of a violation and the penalty as set forth in the notice of violation and recommended penalty.

(3) The hearing shall be conducted in accordance with the Administrative Procedure Act, chapter 34.05 RCW and to the extent not covered in this chapter, by the uniform procedural rules in chapter 10-08 WAC.

(4) If the director presides over the hearing, the director shall issue a final written decision that includes findings of fact, conclusions of law, and if appropriate, the penalty. The director shall cause service of the final decision on all parties.

(5) If the director's designee or an administrative law judge presides over the hearing, she or he shall issue a proposed decision that includes findings of fact, conclusions of law and if appropriate the penalty. The proposed decision shall also include instructions on how to file objections and written arguments or briefs with the director. Objections and written arguments and briefs must be filed within twenty days from the date of receipt of the proposed decision.

#### NEW SECTION

**WAC 82-75-660 Final decision.** (1) The director shall review the proposed decision in accordance with the Administrative Procedure Act, chapter 34.05 RCW and any objec-

tions, written arguments and briefs timely filed by the parties. The director may:

(a) Allow the parties to present oral arguments;

(b) Allow the parties to submit additional information if circumstances so warrant; or

(c) Remand the matter to the designee or administrative law judge for further proceedings.

(2) The director shall issue a final decision that adopts in whole or in part, modifies, or rejects the proposed decision. If the decision finds a violation and assesses monetary penalties, the decision shall include notice that payment must be made no later than forty-five days after service of the decision or the period to appeal has expired, whichever is later.

(3) The director shall cause service of the final decision on all parties. Any party to whom a violation is found, may file a petition for review of the final decision to superior court. If an appeal is not filed within the period set by RCW 34.05.542, the director's decision is conclusive and binding on all parties.

#### NEW SECTION

#### **WAC 82-75-665 Posting of information related to inappropriate disclosure or use of protected information.**

(1) Except as provided in subsection (2) of this section, the office will maintain a web site to provide public access to information related to the inappropriate disclosure or use of protected information. For each complaint for which an investigation is conducted, the office will post the complaint, the information that the lead organization provided to the office pursuant to WAC 82-75-610(5), investigation report and final disposition of the complaint. In addition, if the complaint finds a violation, the office will post the notice of violation and the final hearing order, if a hearing is requested.

(2) If any of the records specified for posting in subsection (1) of this section contains confidential or protected information, that information is privileged and not subject to disclosure under the Public Records Act, chapter 42.56 RCW, and will be redacted from any documents posted on the office web site.

#### **WSR 18-15-005**

#### **PERMANENT RULES**

#### **HEALTH CARE AUTHORITY**

[Filed July 6, 2018, 8:10 a.m., effective August 6, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The agency is amending WAC 182-512-0785 to correct a typographical error in a WAC reference. WAC 182-512-0785 (1)(d) references WAC 182-512-0190. This WAC does not exist. It should refer to WAC 182-512-0790.

Citation of Rules Affected by this Order: Amending WAC 182-512-0785.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 18-10-112 on May 2, 2018.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal

Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: July 6, 2018.

Wendy Barcus  
Rules Coordinator

**AMENDATORY SECTION** (Amending WSR 14-07-059, filed 3/14/14, effective 4/14/14)

**WAC 182-512-0785 SSI-related medical—Effect of a sponsor's income.** (1) The following definitions apply to this section:

(a) "**Sponsor**" means a person who agreed to meet the needs of a sponsored immigrant by signing a United States Citizenship and Immigration Services Affidavit of Support form I-864 or I-864A. This includes a sponsor's spouse if the spouse signed the affidavit of support.

(b) "**Sponsored immigrant**" means a person who must have a sponsor under the Immigration and Nationality Act (INA) to be admitted into the United States for residence.

(c) "**Deeming**" means the agency counts a part of the sponsor's income and resources as available to the sponsored immigrant.

(d) "**Exempt**" means the person meets one of the conditions of WAC ((~~182-512-0190~~) 182-512-0790).

(2) If the person is a sponsored immigrant and is not exempt from deeming, the person must provide the following information to be eligible for Washington apple health (WAH) SSI-related coverage even if the person is not receiving support from their sponsor:

(a) The name and address of the sponsor;

(b) The income and resources of the sponsor; and

(c) Any additional information needed for the agency to determine if:

(i) Income must be deemed to the person's medical assistance unit (MAU); and

(ii) The amount of income that must be deemed to the MAU.

(3) If the person is not eligible for coverage because the agency does not have the information needed regarding the sponsor, eligibility for other unsponsored household members applying for coverage is not delayed. Although the sponsored immigrant may not be eligible for coverage, the following is counted when determining the eligibility of other household members:

(a) All earned or unearned income of the sponsored immigrant that is not excluded under chapter 182-512 WAC; and

(b) All deductions the sponsored immigrant would be eligible for under chapter 182-512 WAC.

(4) If the person refuses to provide the agency with the information needed regarding the sponsor, the other adult members in the MAU must provide the information. If the same person sponsored everyone in the MAU, the entire MAU is not eligible for WAH coverage until someone provides the information that is needed.

## WSR 18-15-007

### PERMANENT RULES

### HEALTH CARE AUTHORITY

[Filed July 6, 2018, 10:25 a.m., effective August 6, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The agency is amending these rules to align with changes to the foundational community supports program protocol that was approved by the Centers for Medicare and Medicaid Services (CMS). The amendments include (1) revising the name of WAC 182-559-300 to reflect that this section contains eligibility for community support services (also known as supportive housing services) only; (2) adding a new section, WAC 182-559-350 Eligibility for supported employment services, to provide detailed eligibility information, which is reflected in the protocol; and (3) adding new WAC 182-559-600 Grievance and appeals system, to clarify the grievance and appeals process for clients receiving services through the foundational community supports program.

Citation of Rules Affected by this Order: New WAC 182-559-350 and 182-559-600; and amending WAC 182-559-100, 182-559-150, 182-559-200, 182-559-300, and 182-559-400.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 18-11-109 on May 22, 2018.

Changes Other than Editing from Proposed to Adopted Version:

Proposed/Accorded	WAC Subsection	Reason
<b>Original WAC 182-559-350 (4)(c)</b>		
Proposed	There is objective evidence, as defined by the progressive evaluation process in chapter 388-447 WAC of physical impairments because of which the client needs assistance with basic work related activities ...	The agency updated the section to add an additional WAC reference for evaluating evidence and to clarify that mental

Proposed/ADOPTED	WAC Subsection	Reason
Adopted	There is objective evidence, as defined by the <u>sequential evaluation process in chapter 388-449 WAC or the progressive evaluation process in chapter 388-447 WAC</u> of physical <u>or mental</u> impairments because of which the client needs assistance with basic work related activities ...	impairments also qualify a client for supported employment services.
<b>Original WAC 182-559-350 (5)(a)</b>		
Proposed	Unable to be gainfully employed for at least ninety consecutive days due to a mental or physical impairment, as demonstrated by eligibility for the aged, blind, and disabled program as defined in WAC 388-449-0001, or the housing and essential needs program as defined in WAC 388-400-0065.	The agency updated the section to correct a program name and a WAC reference.
Adopted	Unable to be gainfully employed for at least ninety consecutive days due to a mental or physical impairment, as demonstrated by eligibility for the aged, blind, <u>or</u> <u>and</u> disabled program as defined in WAC 388-449-0001, or the housing and essential needs program as defined in WAC 388-447-0001 <del>388-400-0065</del> .	

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 2, Amended 5, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 2, Amended 5, Repealed 0.

Date Adopted: July 6, 2018.

Wendy Barcus  
Rules Coordinator

#### AMENDATORY SECTION (Amending WSR 17-11-136, filed 5/24/17, effective 7/1/17)

**WAC 182-559-100 ((Foundational community supports program—))General.** (1) Under the authority of the medicaid transformation project, RCW 71.24.385, and subject to available funds, the medicaid agency covers targeted foundational community supports to eligible medicaid beneficiaries, which include the following benefits:

(a) ((Supportive housing)) Community support services; and

(b) Supported employment services.

(2) ((Supportive housing)) Community support services ((may)) include:

((a)) One-time community transition services to eligible clients moving from institutional to community settings and those who meet an institutional level of care, such as:

(i) Security deposits;

(ii) Essential furnishings;

(iii) Moving expenses;

(iv) Set-up fees or deposits for utility or service access; and

(v) Health and safety assurances such as pest eradication, allergen control, or a one-time cleaning prior to occupancy.

(b) Ongoing community support services, including:

(i) Individual housing transition services which provide direct support to eligible clients.

(ii) Individual housing and tenancy support services that promote housing success, foster community integration and inclusion, develop natural support networks, and assist clients to maintain their housing.

(3) Supportive housing services do not include rental support or other room and board related expenses.

(4) Supportive housing)) (a) Pretenancy supports:

(i) Conducting a functional needs assessment to:

(A) Identify the participant's preferences related to housing (type, location, living alone or with someone else, identifying a roommate, accommodations needed, or other important preferences); and

(B) Identify the participant's needs for support to maintain community integration. This includes what type of setting works best for the client, assistance in budgeting for housing/living expenses, assistance in connecting the client with social services to assist with filling out applications and submitting appropriate documentation in order to obtain sources of income necessary for community living and establishing credit, and in understanding and meeting obligations of tenancy.

(ii) Assisting clients to connect with social services to help with finding and applying for housing necessary to support the clients in meeting their medical care needs;

(iii) Developing an individualized community integration plan based upon the assessment as part of the overall person-centered plan;

(iv) Identifying and establishing short and long-term measurable goal(s), and establishing how goals will be achieved and how concerns will be addressed;

(v) Participating in person-centered plan meetings at redetermination and revision plan meetings, as needed;

(vi) Providing supports and interventions according to the person-centered plan.

**(b) Tenancy-sustaining services:**

(i) Service planning support and participating in person-centered plan meetings at redetermination and revision plan meetings as needed;

(ii) Coordinating and linking the client to services including:

(A) Primary care and health homes;

(B) Substance use treatment providers;

(C) Mental health providers;

(D) Medical, vision, nutritional and dental providers;

(E) Vocational, education, employment and volunteer supports;

(F) Hospitals and emergency rooms;

(G) Probation and parole;

(H) Crisis services;

(I) End of life planning; and

(J) Other support groups and natural supports.

(iii) Entitlement assistance including assisting clients in obtaining documentation, navigating and monitoring application process and coordinating with the entitlement agency;

(iv) Assistance in accessing supports to preserve the most independent living, including skills coaching, financing counseling, anger management, individual and family counseling, support groups, and natural supports;

(v) Providing supports to assist the client in communicating with the landlord and/or property manager regarding the participant's disability (if authorized and appropriate), detailing accommodations needed, and addressing components of emergency procedures involving the landlord and/or property manager;

(vi) Coordinating with the client to review, update and modify their housing support and crisis plan on a regular basis to reflect current needs and address existing or recurring housing retention barriers; and

(vii) Connecting the client to training and resources that will assist the client in being a good tenant and lease compliance, including ongoing support with activities related to household management.

(c) The community support services benefit does not include:

(i) Payment of rent or other room and board costs;

(ii) Capital costs related to the development or modification of housing;

(iii) Expenses for utilities or other regular occurring bills;

(iv) Goods or services intended for leisure or recreation;

(v) Duplicative services from other state or federal programs; and

(vi) Services to clients in a correctional institution or an institute for mental disease (IMD).

(d) Community support services must be provided:

((#)) (i) In an integrated setting of the client's choice; and

((#)) (ii) In a manner that ensures the client's individual right of privacy, dignity, respect, and freedom from coercion and restraint;

((#)) (iii) Post tenancy, in settings consistent with home and community-based services, as defined in 42 C.F.R. Sec. 441.530, such as those that:

((#)) (A) Do not have the qualities of an institution;

((#))) (B) Are not located in a building that is also a publicly or privately operated facility providing inpatient institutional treatment;

((#))) (C) Are not on the grounds of, or immediately adjacent to a public institution;

((#))) (D) Do not have the effect of isolating the client from community members who are not receiving medicaid services; and

((#))) (E) Are not a licensed residential care facility such as an adult family home or assisted living facility.

((#))) (3) Supported employment, such as individual placement and support (IPS) services, ((are)) is individualized and ((may include any combination)) includes one or more of the following services:

(a) ((Vocational/job related discovery and assessment;

(b) Person centered employment planning;

(c) Career advancement services;

(d) Individualized job development and placement;

(e) Negotiation with employers and follow along supports to employers;

(f) Job analysis;

(g) Job carving;

(h) Job coaching;

(i) Benefits support, training, and planning;

(j) Transportation (only in conjunction with the delivery of an authorized service);

(k) Asset development; or

(l) Other workplace support services including services not specifically related to job skill training that enable the program participant to be successful in integrating into the job setting.

(6) Supported employment services do not include wages or wage enhancements for clients.

((#))) Preemployment services:

(i) Prevocation/job-related discovery or assessment;

(ii) Person-centered employment planning;

(iii) Individualized job development and placement;

(iv) Job carving;

(v) Benefits education and planning; or

(vi) Transportation (only in conjunction with the delivery of an authorized service).

((#))) Employment sustaining services:

(i) Career advancement services;

(ii) Negotiation with employers;

(iii) Job analysis;

(iv) Job coaching;

(v) Benefits education and planning;

(vi) Transportation (only in conjunction with the delivery of an authorized service);

(vii) Asset development; or

(viii) Follow-along supports.

((#))) The IPS benefit does not include:

(i) Generalized employer contacts that are not connected to a specific enrolled individual or an authorized service;

(ii) Employment support for individuals in subminimum wage, or sheltered workshop settings; and

(iii) Facility-based habilitation or personal care services.

(d) Supported employment services must be provided in settings consistent with settings defined in 42 C.F.R. 441.530

(a)(1)(i) through (v) and (a)(2).

(4) Clients who meet the eligibility criteria for both community support services and supported employment services are able to receive both services concurrently. See WAC 182-559-300 for community support services eligibility criteria and WAC 182-559-350 for supported employment eligibility criteria.

(5) In order to ensure the demand for services remains within available funds, the agency may impose enrollment wait lists for services. The wait list for foundational community supports services is considered on a first-come first-serve basis using the date the client requests community support services.

(6) Services described in this chapter must be approved under the explicit authority of the medicaid transformation project.

AMENDATORY SECTION (Amending WSR 17-11-136, filed 5/24/17, effective 7/1/17)

**WAC 182-559-150 ((Foundational community supports program—))Definitions.** The following definitions and those found in chapter 182-500 WAC apply to this chapter.

((Community transition services" means one-time supports that cover certain costs necessary for a client to transition from an institution to a community-based setting, or prevent a client's placement in an institution.))

"Adverse benefit determination" means one or more of the following:

(a) The denial or limited authorization of a requested foundational community support services, including determinations based on the type of service, requirements for medical necessity, appropriateness, setting, or effectiveness of a service;

(b) The reduction, suspension, or termination of a previously authorized service;

(c) The denial, in whole or in part, of payment for a service;

(d) The failure to provide services in a timely manner, as defined by the state; or

(e) The failure of the third-party administrator (TPA) to act within the time frames provided in WAC 182-559-600 for standard resolution of grievances and appeals.

"Community support services (also called supportive housing services)" means active search and promotion of access to, and choice of, safe and affordable housing that is appropriate to the client's age, culture and needs. These services include:

(a) Providing services to eligible clients who are homeless or at risk of becoming homeless through outreach, engagement and coordination of services with shelter and housing;

(b) Ensuring the availability of community support services, with an emphasis on supporting clients in their own home or where they live in the community; and

(c) Coordinating with public housing entities, homeless continuums of care and affordable housing developers.

"Individual placement and support (IPS)" refers to an evidence-based approach to supported employment services based on the following principles:

(a) Services are open to all eligible clients who wish to work;

(b) Competitive employment is the goal;

(c) Integrated with other services provided to the client;

(d) Personalized benefits planning;

(e) Job search begins soon after the client expresses interest in working;

(f) Job search based on client preferences;

(g) Supports are not time-limited; and

(h) Client preferences are honored.

"Supported employment" means coordination with state and local entities to provide assistance and support, such as skills assessment, training, education and counseling to eligible clients who want to work.

((Supportive housing" means active search and promotion of access to, and choice of, safe and affordable housing that is appropriate to the client's age, culture and needs. This includes:

(a) Providing services to eligible clients who are homeless or at risk of becoming homeless through outreach, engagement and coordination of services with shelter and housing;

(b) Ensuring the availability of community support services, with an emphasis on supporting clients in their own home or where they live in the community; and

(c) Coordinating with public housing entities, homeless continuums of care and affordable housing developers.))

AMENDATORY SECTION (Amending WSR 17-11-136, filed 5/24/17, effective 7/1/17)

**WAC 182-559-200 ((Foundational community supports program—))Eligible providers.** (1) Providers of ((supportive housing)) community support services and supported employment services under this authority must be:

(a) Health care professionals, entities, or contractors as defined by WAC 182-502-0002;

(b) Agencies, centers, or facilities as defined by WAC 182-502-0002;

(c) Health home providers as described in WAC 182-557-0050;

(d) Behavioral health providers licensed and certified according to chapter 388-877 WAC; or

(e) Housing, employment, social service, or related agencies with ((at least one year of)) demonstrated experience and ability to provide ((supportive housing)) community support services, supported employment, or equivalent services.

(i) Community support services experience may be demonstrated by:

(A) Two years' experience in the coordination of supportive housing or in the coordination of independent living services in a social service setting under qualified supervision; or

(B) Certified in supportive housing services (WAC 388-877-0720 or 388-877-0722) by the department of social and health services/division of behavioral health and recovery (DSHS/DBHR).

(ii) Supported employment experience may be demonstrated by one or more of the following:

(A) Accredited by the commission on accreditation of rehabilitation facilities (CARF) in employment services;

(B) Certified in employment services (WAC 388-877-0718 or 388-877-0720) by DSHS/DBHR; or

(C) All staff that will be performing supported employment services meet one of the following criteria:

(I) Be a certified employment support professional (CESP) by the employment support professional certification council (ESPCC);

(II) Be a certified rehabilitation counselor (CRC) by the commission of rehabilitation counselor certification (CRCC);

(III) Have a bachelor's degree or higher in human or social services from an accredited college or university and at least two years of demonstrated experience providing supported employment or similar services; or

(IV) Have four or more years of demonstrated experience providing supported employment or similar services.

(2) Providers of ((supportive housing)) community support services or supported employment services must (either):

(a) Obtain a core provider agreement in accordance with WAC 182-502-0005;

(b) Enroll with the medicaid agency as a nonbilling provider in accordance with WAC 182-502-0006; or

(c) Be qualified to bill for aging and long-term support administration services to provide ((supportive housing)) community support services or supported employment services.

**AMENDATORY SECTION** (Amending WSR 17-11-136, filed 5/24/17, effective 7/1/17)

**WAC 182-559-300 ((Foundational community supports program—))Eligibility for community support services.** (((+))) To be eligible for ((supportive housing)) community support services, a client must:

((#))) (1) Be age eighteen or older;

((b))) (2) Be eligible for Washington apple health (medicaid);

((e)) Be assessed by a qualified provider and determined to have a functional need for the services; and

((d)) Meet one of the following population criteria:

((i)) Be chronically homeless as defined by the federal Department of Housing and Urban Development;

((ii)) Have)) (3) Meet at least one of the following health criteria and be expected to benefit from community support services:

((a)) Clients assessed by a licensed behavioral health agency, under chapter 388-877 WAC, to have a behavioral health need, which is defined as one or both of the following criteria:

((i)) Mental health needs, including a need for improvement, stabilization, or prevention of deterioration of functioning (including the ability to live independently without support) resulting from the presence of a mental illness; or

((ii)) Substance use needs determined by an assessment using the American Society of Addiction Medicine (ASAM) criteria indicates that the client meets at least ASAM level 1.0, indicating the need for outpatient substance use disorder (SUD) treatment. The ASAM is a multi-dimensional assess-

ment approach for determining a client's need for SUD treatment.

(b) Clients assessed via a CARE assessment, per WAC 388-106-0050, to have a need for assistance demonstrated by:

((i)) The need for assistance with at least three activities of daily living (ADLs) defined in WAC 388-106-0010, one of which may be body care; or

((ii)) Hands-on assistance with at least one ADL which may include body care.

((c) Clients assessed to be a homeless person with a disability, according to 24 C.F.R. 578.3, which is defined as a long continuing or indefinite physical condition requiring improvement, stabilization, or prevention of deterioration of functioning (including ability to live independently without support).

((4) Exhibit at least one of the following risk factors:

((a)) Homeless clients who:

((i)) Have been homeless for at least twelve months; or

((ii)) Have been homeless on at least four separate occasions in the last three years, as long as the combined occasions equal at least twelve months.

Homeless is defined as living in a safe haven, an emergency shelter, or a place not meant for human habitation. See 24 C.F.R. 578.3.

((b)) A history of frequent or lengthy institutional contact((:

((iii)) Have frequent or lengthy)).

((i)) Institutional care facilities include jails, substance abuse or mental health treatment facilities, hospitals, or other similar facilities, as defined in 24 C.F.R. 578.3, or skilled nursing facilities as defined in WAC 388-97-0001.

((ii)) Frequent means more than one contact in the past twelve months.

((iii)) Lengthy means ninety or more consecutive days within an institutional setting in the past twelve months.

((c)) A history of frequent stays at adult residential care facilities as defined by WAC 388-110-020 ((and)) or residential treatment facilities as defined by WAC 246-337-005((;

((iv))) Frequent means more than one contact in the past twelve months.

((d)) Have frequent turnover of in-home caregivers as defined by WAC 388-106-0040((; or

((v))) where within the last twelve months the client utilized three or more different in-home caregiver providers and the current placement is not appropriate for the client.

((e)) Have a predictive risk score of 1.5 or above. See WAC 182-557-0225.

((2) To be eligible for community transition services, a client must meet the criteria described in subsection (1) of this section and be determined by a qualified provider to meet an institutional level of care standard for admission to either:

((a)) A nursing facility, as described in WAC 388-106-0355; or

((b)) An inpatient medical hospital, not including institutes for mental disease (IMD), as described in WAC 182-513-1320.

((3) To be eligible for supported employment services, a client must:

((a)) Be age sixteen or older;

((b)) Be eligible for apple health (medicaid);

- ~~(e) Desire to obtain employment;~~
- ~~(d) Be assessed by a qualified provider and determined to have a functional need for the services; and~~
- ~~(e) Meet one of the following population criteria:~~
  - ~~(i) Be enrolled in the aged, blind and disabled program as defined in WAC 388-449-0001, or the housing and essential needs program as defined in WAC 388-400-0065;~~
  - ~~(ii) Be diagnosed with at least one of the following:~~
    - ~~(A) A severe and persistent mental illness;~~
    - ~~(B) Substance use disorder with multiple episodes of treatment;~~
    - ~~(C) Co-occurring mental health and substance use disorders.~~
  - ~~(iii) Be age sixteen through twenty-four with a behavioral health diagnosis; or~~
  - ~~(iv) Be receiving long-term services and supports as defined in chapter 388-106 WAC.~~
- ~~(4) Clients who meet the eligibility criteria for both supportive housing and supported employment are able to receive both services concurrently.~~
- ~~(5) In order to ensure the demand for services remains within available funds, the medicaid agency may impose enrollment wait lists for services.)~~

**AMENDATORY SECTION** (Amending WSR 17-11-136, filed 5/24/17, effective 7/1/17)

**WAC 182-559-400 ((Foundational community supports program—))Payment.** The medicaid agency pays for ((supportive housing)) community support services and supported employment described in WAC 182-559-100 when no other public funds are already dedicated to providing comparable services to the client, unless the provider can demonstrate that the client requires services that are:

- (1) Outside the scope of services provided by the program already in place or for which the client is otherwise eligible; and
- (2) Within the scope of the services identified as reimbursable in this section.

#### NEW SECTION

**WAC 182-559-350 Eligibility for supported employment services.** To be eligible for supported employment services, a client must:

- (1) Be age sixteen or older;
- (2) Be eligible for apple health (medicaid);
- (3) Desire to obtain employment;
- (4) Meet at least one of the following health criteria and is expected to benefit from supported employment services:
  - (a) Clients assessed by a licensed behavioral health agency, under chapter 388-877 WAC, to have a behavioral health need, which is defined as one or both of the following criteria:
    - (i) Mental health needs, including a need for improvement, stabilization, or prevention of deterioration of functioning (including ability to live independently without support) resulting from the presence of a mental illness; or
    - (ii) Substance use needs determined by an assessment using the American Society of Addiction Medicine (ASAM) criteria indicates that the client meets at least ASAM level

1.0, indicating the need for outpatient substance use disorder (SUD) treatment. The ASAM is a multi-dimensional assessment approach for determining a client's need for SUD treatment.

(b) Clients assessed via a CARE assessment, per WAC 388-106-0050, to have a need for assistance demonstrated by:

- (i) The need for assistance with at least three activities of daily living (ADLs) defined in WAC 388-106-0010, one of which may be body care; or

- (ii) Hands-on assistance with at least one ADL which may include body care.

(c) There is objective evidence, as defined by the sequential evaluation process in chapter 388-449 WAC or the progressive evaluation process in chapter 388-447 WAC, of physical or mental impairments because of which the client needs assistance with basic work-related activities, including one or more of the following: Sitting, standing, walking, lifting, carrying, handling, manipulative or postural functions (pushing, pulling, reaching, handling, stooping or crouching), seeing, hearing, communicating, remembering, understanding and following instructions, responding appropriately to supervisors and coworkers, tolerating the pressures of a work setting, maintaining appropriate behavior, using judgment, and adapting to changes in a routine work setting.

(5) Exhibit at least one of the following risk factors:

(a) Unable to be gainfully employed for at least ninety consecutive days due to a mental or physical impairment, as demonstrated by eligibility for the aged, blind, or disabled program as defined in WAC 388-449-0001, or the housing and essential needs program as defined in WAC 388-447-0001;

(b) More than one instance of treatment for a substance use disorder within the past two years;

(c) At risk of deterioration of mental illness and substance use disorder, or both, including one or more of the following:

- (i) Persistent or chronic risk factors such as social isolation due to a lack of family or social supports, poverty, criminal justice involvement, or homelessness;

- (ii) Care for mental illness and substance use disorder, or both, requires multiple provider types, including behavioral health, primary care, long-term services and supports, or other supportive services; or

- (iii) Past psychiatric history, with no significant functional improvement that can be maintained without treatment and/or supports.

- (d) Dysfunction in role performance due to a behavioral health condition, including one or more of the following:

- (i) Behaviors that disrupt employment or schooling, or put employment at risk of termination or schooling suspension;

- (ii) A history of multiple terminations from work or suspensions/expulsions from school;

- (iii) Cannot succeed in a structured work or school setting without additional support or accommodations; or

- (iv) Performance significantly below expectations for cognitive/developmental level.

- (e) An inability to obtain or maintain employment resulting from age, physical disability, or traumatic brain injury.

**NEW SECTION****WAC 182-559-600 Grievance and appeals system.** (1)

This section contains information about the third-party administrator (TPA) grievance and appeal system and the medicaid agency's administrative hearing process for clients under the foundational community supports program.

(a) The TPA must have a grievance and appeal system and access to an agency administrative hearing to allow clients to file grievances and seek review of a TPA adverse benefit determination as defined in WAC 182-559-150.

(b) The agency's administrative hearing rules in chapter 182-526 WAC apply to agency administrative hearings requested by a client to review the resolution of a client's appeal of a TPA adverse benefit determination.

(c) If a conflict exists between the requirements of this chapter and specific program rules, the requirements of this chapter prevail.

(d) The TPA's policies and procedures regarding the grievance system must be approved by the agency.

(e) The TPA must maintain records of grievances and appeals.

(2) TPA grievance and appeal system. The TPA grievance and appeal system includes:

(a) A grievance process for addressing complaints about any matter that is not an adverse benefit determination;

(b) A TPA appeals process to address a client's request for review of a TPA adverse benefit determination;

(c) Access to the agency's administrative hearing process for review of a TPA's resolution of an appeal; and

(d) Allowing clients and the client's authorized representatives to file grievances and appeals orally or in writing. The TPA cannot require clients to provide written follow up for a grievance or an appeal that the TPA received orally.

(3) Notice requirements. The TPA must follow notice and timeline requirements under chapter 182-518 WAC. The TPA sends written notice when they:

(a) Approve the client's foundational community supports eligibility and authorize the delivery of services;

(b) Deny the client's foundational community supports eligibility; and

(c) Approve the client's foundational community supports eligibility without authorization of services due to necessary funding being unavailable. Clients must be notified of placement on a waitlist until funding becomes available.

(4) The TPA grievance process.

(a) A client or client's authorized representative may file a grievance with the TPA. A provider may not file a grievance on behalf of a client without the client's written consent.

(b) Clients do not have a right to an agency administrative hearing regarding the resolution of a grievance.

(c) The TPA must acknowledge receipt of each grievance either orally or in writing within two business days.

(d) The TPA must notify clients of the resolution of grievances within five business days of determination.

(5) The TPA appeals process.

(a) A client, the client's authorized representative, or a provider acting on behalf of the client with the client's written consent may appeal a TPA adverse benefit determination.

(b) The TPA treats oral inquiries about appealing an adverse benefit determination as an appeal to establish the

earliest possible filing date for the appeal. The TPA confirms the oral appeal in writing.

(c) The TPA must acknowledge in writing the receipt of each appeal to both the client and the requesting provider within five calendar days of receiving the appeal request. The appeal acknowledgment letter sent by the TPA serves as written confirmation of an appeal filed orally by a client.

(d) The client must file an appeal of a TPA action within sixty calendar days of the date on the TPA's notice of adverse benefit determination.

(e) The TPA must continue services pending the results of an appeal or subsequent agency administrative hearing.

(f) The TPA internal appeal process:

(i) Provides the client a reasonable opportunity to present evidence and allegations of fact or law, both in person and in writing;

(ii) Provides the client and the client's representative the client's case file, other documents and records, and any new or additional evidence considered, relied upon, or generated by the TPA (or at the direction of the TPA) in connection with the action. This information must be provided free of charge in advance of the resolution time frame for appeals as specified in this section; and

(iii) Includes as parties to the appeal:

(A) The client and the client's authorized representative; and

(B) The legal representative of the deceased client's estate.

(g) The TPA ensures that the people making decisions on appeals were not involved in any previous level of review or decision making.

(h) Time frames for resolution of appeals.

(i) The TPA resolves each appeal and provides notice as expeditiously as the client's health condition requires and no longer than three calendar days after the day the TPA receives the appeal.

(ii) The TPA may extend the time frame by an additional fourteen calendar days if it is necessary in order to complete the appeal.

(i) Notice of resolution of appeal. The notice of the resolution of the appeal must:

(i) Be in writing and be sent to the client and the requesting provider;

(ii) Include the results of the resolution of the appeal process and the date it was completed; and

(iii) Include information on the client's right to request an agency administrative hearing and how to do so as provided in the agency hearing rules under WAC 182-526-0095, if the appeal is not resolved wholly in favor of the client.

(j) Deemed completion of the TPA appeal process. If the TPA fails to adhere to the notice and timing requirements for appeals, the client is deemed to have completed the TPA's appeals process and may request an agency administrative hearing under WAC 182-526-0095.

(6) Agency administrative hearing.

(a) Only a client or the client's authorized representative may request an agency administrative hearing. A provider may not request a hearing on behalf of a client.

(b) If the client does not agree with the TPA's resolution of an appeal at the completion of the TPA appeal process, the

client may file a request for an agency administrative hearing based on the rules in this section and the agency hearing rules in chapter 182-526 WAC. The client must request an agency administrative hearing within ninety calendar days of the notice of resolution of appeal.

(c) The TPA is an independent party and responsible for its own representation in any administrative hearing, appeal to the board of appeals, and any subsequent judicial proceedings.

(7) Effect of reversed resolutions of appeals. If the TPA or a final order as defined in chapter 182-526 WAC reverses a decision to deny or limit services, the TPA must authorize or provide the disputed services promptly and as expeditiously as the client's health condition requires.

(8) Funding unavailable. When a client receives approval for services and funding is unavailable, the client may appeal the determination that funding is unavailable.

Derek I. Sandison  
Director

**AMENDATORY SECTION** (Amending WSR 14-03-007, filed 1/6/14, effective 2/6/14)

**WAC 16-561-006 Marketing order purposes.** This marketing order is to promote the general welfare of the state and for the purpose of maintaining existing markets or creating new or larger local, domestic, and foreign markets; increasing production efficiency; ensuring a fair regulatory environment; or increasing per capita consumption of red raspberries grown in Washington state. The Washington state red raspberry commodity board is designated by the director to conduct programs in accordance with chapter 15.65 RCW.

(1) To carry out the purposes of the marketing order, the board may provide for a program in one or more of the following areas:

(a) Establish plans and conduct programs for marketing, sales, promotion or other programs for maintaining present markets or creating new or larger markets for raspberries. Programs shall be directed toward increasing the sale of raspberries without reference to any particular brand or trade name and shall neither make use of false or unwarranted claims on behalf of raspberries nor disparage the quality, value, sale, or use of any other agricultural commodity. The board may also engage in cooperative efforts in the domestic or foreign marketing of red raspberries;

(b) Develop and engage in research for developing better and more efficient production, processing, irrigation, transportation, handling, or marketing of red raspberries and expend the necessary funds for such purposes. Insofar as practicable, such research shall be carried out by Washington State University, but if in the judgment of the board, Washington State University does not have adequate facilities for a particular project or if some other research agency has better facilities, the project may be carried out by other research agencies selected by the board;

(c) Conduct programs for the purpose of providing information and education including:

(i) Marketing information and services to affected producers for the verification of weights, tests, and sampling of quality and quantity of raspberries purchased by handlers from affected producers;

(ii) Information and services enabling producers to meet their resource conservation objectives;

(iii) Red raspberry-related education and training.

(d) Subject to the provisions of ((the act)) chapter 15.65 RCW, provide information and communicate on matters pertaining to the production, irrigation, processing, transportation, marketing, or uses of red raspberries produced in Washington state to any elected official or officer or employee of any agency.

(2) The director shall approve any plans, programs, and projects concerning:

(a) The establishment, issuance, effectuation, and administration of programs authorized under this section for advertising and promotion of red raspberries; and

(b) The establishment and effectuation of market research projects, market development projects, or both to the

**WSR 18-15-009  
PERMANENT RULES  
DEPARTMENT OF AGRICULTURE**

[Filed July 6, 2018, 1:03 p.m., effective August 6, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Chapter 16-561 WAC is the marketing order for the Washington red raspberry commission. These amendments add public records disclosure procedures, as required by RCW 42.56.040; authorizes [authorize] the board to set the assessment rate up to a maximum of \$0.02 per affected unit (pound) at the conclusion of harvest; and, clarifies [clarify] when assessments are due and payable to the commission.

Citation of Rules Affected by this Order: New WAC 16-561-125, 16-561-130, 16-561-135, 16-561-140, 16-561-145, 16-561-150, 16-561-155 and 16-561-160; repealing WAC 16-561-100 and 15-561-110; and amending WAC 16-561-006, 16-561-010, 16-561-020, 16-561-035, 16-561-040, 16-561-041, and 16-561-120.

Statutory Authority for Adoption: RCW 15.65.047.

Other Authority: Chapter 34.05 RCW.

Adopted under notice filed as WSR 18-08-082 on April 4, 2018.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 8, Amended 7, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: July 6, 2018.

end that marketing and utilization of the affected commodity may be encouraged, expanded, improved, or made more efficient.

(3) The Washington state red raspberry commission will not adopt rules relating to grades and standards.

**AMENDATORY SECTION** (Amending WSR 14-03-007, filed 1/6/14, effective 2/6/14)

**WAC 16-561-010 Definitions.** Definitions for terms used in this chapter must be interpreted as consistent with the definitions in chapter 15.65 RCW, Washington state agricultural commodity boards.

((1)) "Director" means the director of agriculture of the state of Washington or the director's duly appointed representative.

(2) "Department" means the department of agriculture of the state of Washington.

(3) "Act" means the Washington State Agricultural Enabling Act or chapter 15.65 RCW.

(4) "Person" means any individual, firm, corporation, limited liability company, trust, association, partnership, society or any other organization of individuals or any unit or agency of local or state or federal government.

(5) "Affected producer" means any person who produces or stores in the state of Washington raspberries in commercial quantities for fresh market, for processing, or for sale to processors. "To produce" means to act as a producer.

(6) "Commercial quantity" means any raspberries produced or stored in quantities of three tons (6,000 pounds) or more, in any calendar year.

(7) "Handler" means any person who acts as principal or agent or otherwise in processing, selling, marketing, storing, freezing, or distributing raspberries not produced by him or her. Handler does not include a common carrier used to transport an agricultural commodity. "To handle" means to act as a handler.

(8) "Red raspberry commodity board," hereinafter referred to as "board" or "commission" means the commodity board formed under the provisions of WAC 16-561-020.

(9) "Raspberries" means and includes all kinds, varieties, and hybrids of "rubus idaeus" of red color.

(10) "Marketing season" or "fiscal year" means the twelve month period beginning with January 1 of any year and ending with the last day of December following, both dates being inclusive.

(11) "Producer-handler" means any person who acts both as a producer and as a handler with respect to raspberries. A producer handler shall be deemed to be a producer with respect to the raspberries which he or she produces and a handler with respect to the raspberries which he or she handles, including those produced by himself or herself.

(12) "Affected area" means that portion of the state of Washington located west of the summit of the Cascade Mountains.

(13) "Sell" includes offer for sale, expose for sale, have in possession for sale, exchange, barter, or trade.

(14) "Affected unit" means one pound net of raspberries.) "Affected area" means that portion of the state of

Washington located west of the summit of the Cascade Mountains.

"Affected producer" means any person who produces or stores in the state of Washington raspberries in commercial quantities for fresh market, for processing, or for sale to processors. "To produce" means to act as a producer.

"Affected unit" means one pound net of raspberries.

"Commercial quantity" means any raspberries produced or stored in quantities of three tons (6,000 pounds) or more, in any calendar year.

"Department" means the department of agriculture of the state of Washington.

"Director" means the director of agriculture of the state of Washington or the director's duly appointed representative.

"Handler" means any person who acts as principal or agent or otherwise in processing, selling, marketing, storing, freezing, or distributing raspberries not produced by him or her. Handler does not include a common carrier used to transport an agricultural commodity. "To handle" means to act as a handler.

"Harvest season" means that period from May 1st to September 15th of each year.

"Hosting" may include providing meals, refreshments, lodging, transportation, gifts of a nominal value, reasonable and customary entertainment and normal incidental expenses at meetings or gatherings.

"Marketing season" or "fiscal year" means the twelve-month period beginning with January 1st of any year and ending with the last day of December following, both dates being inclusive.

"Person" means any individual, firm, corporation, limited liability company, trust, association, partnership, society or any other organization of individuals or any unit or agency of local or state or federal government.

"Producer-handler" means any person who acts both as a producer and as a handler with respect to raspberries. A producer-handler shall be deemed to be a producer with respect to the raspberries which he or she produces and a handler with respect to the raspberries which he or she handles, including those produced by himself or herself.

"Promotional hosting" as used in these rules means the hosting of individuals and groups of individuals at meetings, meals, and gatherings for the purpose of cultivating trade relations, promoting sales of red raspberries, developing industry unity, and furthering the objectives of the commission.

"Raspberries" means and includes all kinds, varieties, and hybrids of "rubus idaeus" of red color.

"Sell" includes offer for sale, expose for sale, have in possession for sale, exchange, barter, or trade.

"Washington red raspberry commission," hereinafter referred to as "board," "commission," or "WRRC" means the commodity board formed under the provisions of WAC 16-561-020.

**AMENDATORY SECTION** (Amending WSR 14-03-007, filed 1/6/14, effective 2/6/14)

**WAC 16-561-020 Red raspberry commodity board.**

(1) **Administration.** The provisions of this order and the applicable provisions of ((the act)) chapter 15.65 RCW shall be administered and enforced by the board as the designee of the director.

**(2) Board membership.**

(a) The board shall consist of seven voting members. Six members shall be affected producers appointed or elected as provided in this section. The director shall appoint one member who is neither an affected producer nor a handler to represent the director. The position representing the director shall be a voting member.

(b) Director-appointed producer positions on the board shall be designated as position 1, position 5, and position 6.

(c) Elected producer positions on the board shall be designated as position 2, position 3, and position 4.

(d) The position representing the director who is neither an affected producer nor a handler shall be designated as position 7.

(e) For the purpose of nomination, appointment, and election of producer members of the board, the affected area shall be that portion of the state of Washington located west of the summit of the Cascade Mountains and shall be divided into two representative districts as follows:

(i) District I shall have three board members, being positions 1, 2, and 3, and shall include the counties of Whatcom, Skagit, Snohomish, and King.

(ii) District II shall have one board member, being position 4, and shall include all western Washington counties not included in District I.

(iii) Positions 5 and 6 are designated as at-large position and may be filled from any western Washington county. The positions are filled in accordance with RCW 15.65.250.

(f) The voting board may also appoint up to two additional nonvoting members to serve in an advisory capacity from among the crop advisors, handlers or others with expertise in the red raspberry industry. The voting members of the board will make these appointments at the first meeting of the calendar year. Advisory board member appointments are for a one-year period. Nonvoting advisory members may serve additional consecutive terms of office if reappointed by the board.

(3) **Board membership qualifications.** The producer members of the board must be practical producers of raspberries and each shall be a resident of this state, and over the age of eighteen years. Each producer board member must be and have been actually engaged in producing raspberries within the state of Washington for a period of five years and has, during that time, derived a substantial portion of his or her income therefrom. Producer-handlers shall be considered to be acting only as producers for purpose of appointment or election and membership on a commodity board. The qualifications of members of the board as herein set forth must continue during the terms of office.

**(4) Term of office.**

(a) The term of office, for members of the board shall be three years, and one-third of the membership as nearly as

possible shall be elected each year. Terms shall expire on November 30th.

(b) Membership positions on the board shall be designated numerically; affected producers shall have positions one through six and the member representing the director, position seven.

(c) The term of office for the initial board members shall be as follows:

Positions one and two - One year;

Positions three, four, five, and nine - Two years;

Positions six, seven, eight, ten, and eleven - Three years.

(d) To accomplish the transition to the newly defined districts and areas and to a commodity board structure where the director appoints a majority of the voting board members, the initial producer appointments are as follows:

(i) The current incumbent representing position 6 will be appointed to the new position 1 with an expiration date of November 30, 2015;

(ii) The current incumbent representing position 8 will be appointed to the new position 2 with an expiration date of November 30, 2016;

(iii) The current incumbent representing position 3 will be appointed to the new position 3 with an expiration date of November 30, 2014;

(iv) The current incumbent representing position 5 will be appointed to the new position 4 with an expiration date of November 30, 2014;

(v) The current incumbent representing position 9 will be appointed to the new position 5 with an expiration date of November 30, 2015;

(vi) The current incumbent representing position 10 will be appointed to the new position 6 with an expiration date of November 30, 2016.

Any remaining board members not appointed to a new position will serve out the remainder of their existing term.

(e) Except for the director's representative, no appointed or elected member of the board may serve more than two full consecutive three-year terms. Any previous board member may be reelected to a qualified position after such term limits if at least one full three-year period has passed since the last date of the second consecutive term in office.

(5) **Nomination of elected or director-appointed board members.** Each year the director shall call a nomination meeting for elected or director-appointed producer board members. The meeting(s) shall be held at least thirty days in advance of the date set by the director for the election or advisory vote of board members.

(a) Notice of a nomination meeting shall be published in a newspaper of general circulation within the affected area not less than ten days in advance of the date of such meeting; and, in addition, written notice of every such meeting shall be given to all affected producers within the affected area according to the list maintained by the board pursuant to RCW 15.65.295.

(b) Nonreceipt of notice by any interested person shall not invalidate the proceedings at such nomination meeting.

(c) Any qualified affected producer may be nominated orally for membership on the board at a nomination meeting. Nominations may also be made within five days after the

meeting by written petition filed with the director, signed by not less than five affected producers.

**(6) Election or advisory vote of board members.**

(a) An election or advisory vote shall be conducted by secret ballot under the supervision of the director within the month of October. Each affected producer shall be entitled to one vote.

(b) Elected members of the board shall be elected by a majority of the votes cast by the affected producers within the affected area.

(c) If a nominee for an elected position does not receive a majority of the votes on the first ballot, a run-off election shall be held by mail in a similar manner between the two candidates for such position receiving the largest number of votes.

(d) An advisory vote shall be conducted for producer board members appointed by the director under the provisions of RCW 15.65.243. The names of the two candidates receiving the most votes in the advisory vote shall be forwarded to the director for potential appointment to the board. In the event there are only two candidates nominated for a board position, an advisory vote may not be held and the candidates' names shall be forwarded to the director for potential appointment.

(e) Notice of every election or advisory vote for board membership shall be published in a newspaper of general circulation within the affected area not less than ten days in advance of the date of the election. Not less than ten days prior to every election or advisory vote for board membership, the director shall mail a ballot of the candidates to each affected producer entitled to vote whose name appears on the list of affected producers within the affected area maintained by the board pursuant to RCW 15.65.295. Any other affected producer entitled to vote may obtain a ballot by application to the director upon establishing his or her qualifications.

(f) Nonreceipt of a ballot by any affected producer shall not invalidate the election of any board members.

**(7) Vacancies.**

(a) In the event of a vacancy on the board in an elected position, the remaining members shall select a qualified person to fill the unexpired term. The appointment shall be made at the board's first or second meeting after the position becomes vacant.

(b) In the event of a vacancy in a director-appointed position, the remaining board members shall recommend to the director a qualified person for appointment to the vacant position. The director shall appoint the person recommended by the board unless the person fails to meet the qualifications of board members under chapter 15.65 RCW and this order.

(8) **Quorum.** A majority of the voting members shall constitute a quorum for the transaction of all business and the carrying out of all duties of the board.

(9) **Board compensation.** No member of the board shall receive any salary or other compensation, but each voting and advisory board member may be compensated in accordance with RCW 43.03.230 and shall be reimbursed for subsistence, lodging, and mileage in accordance with RCW 43.03.-050 and 43.03.060, as provided for in RCW 15.65.270. The board may adopt by resolution provisions for reimbursement of actual travel expenses incurred by members and employ-

ees of the board in carrying out the provisions of this marketing order pursuant to RCW 15.65.270.

**(10) Procedures for board.**

(a) The board shall hold regular meetings, at least four times annually, and such meetings shall be held in accordance with chapter 42.30 RCW (Open Public Meetings Act). Notice of the time and place of regular meetings shall be published on or before January of each year in the *Washington State Register*. Notice of any change of the regular meeting schedule shall be published in the *Washington State Register* at least twenty days prior to the rescheduled meeting date.

(b) The board shall hold an annual meeting, at which time an annual report will be presented. The budget shall be presented for discussion at the meeting. Notice of the annual meeting shall be given by the board at least ten days prior to the meeting by written notice to each producer and by regular news service.

(c) The board shall establish by resolution, the time, place, and manner of calling special meetings of the board with reasonable notice to the members: Provided, That the notice to a member of any special meeting may be waived by a waiver from that member of the board. Notice of special meetings will be in compliance with chapter 42.30 RCW.

**AMENDATORY SECTION** (Amending WSR 14-03-007, filed 1/6/14, effective 2/6/14)

**WAC 16-561-035 Powers and duties of the board.**  
The board shall have the following powers and duties to:

(1) Administer, enforce, and control the provisions of this order as the designee of the director.

(2) Elect a chairman and such other officers as the board deems advisable.

(3) Employ and discharge at its discretion such personnel as the board determines necessary and proper to carry out the purpose of the order and effectuate the declared policies of ((the act)) chapter 15.65 RCW.

(4) Pay only from moneys collected as assessments or advances thereon the costs arising in connection with the formulation, issuance, administration, and enforcement of the order. Such expenses and costs may be paid by check, draft, or voucher in such form and in such manner and upon the signature of the person as the board may prescribe.

(5) Reimburse any applicant who has deposited with the director in order to defray the costs of formulating the order.

(6) Establish a "raspberry board marketing revolving fund" and such fund to be deposited in a bank or banks or financial institution or institutions, approved for the deposit of state funds, in which all money received by the board shall be deposited as often as advisable.

(7) Keep or cause to be kept in accordance with accepted standards of good accounting practice, accurate records of all assessments, paid outs, moneys, and other financial transactions made and done pursuant to this order. Such records, books, and accounts shall be audited subject to procedures and methods lawfully prescribed by the state auditor. Such books and accounts shall be closed as of the last day of each fiscal year. A copy of such audit shall be delivered within thirty days after the completion thereof to the governor, the director, the state auditor, and the board.

(8) Require a bond of all board members and employees of the board in a position of trust in the amount the board shall deem necessary. The premium for such bond or bonds shall be paid by the board from assessments collected. Such bond shall not be necessary if any such board member or employee is covered by any blanket bond covering officials or employees of the state of Washington.

(9) Prepare a budget or budgets covering anticipated income and expenses to be incurred in carrying out the provisions of the order during each fiscal year. The board, at least fifteen days prior to the beginning of its fiscal year, shall prepare and submit to the director for approval its research plan, its commodity-related education and training plan, and its budget.

(10) Establish by resolution, a headquarters which shall continue as such unless and until so changed by the board. All records, books, and minutes of board meetings shall be kept at such headquarters.

(11) Adopt rules of a technical or administrative nature for the operation of the board, subject to the provisions of chapter 34.05 RCW (Administrative Procedure Act).

(12) Carry out the provisions of RCW 15.65.510 covering the obtaining of information necessary to effectuate the provisions of ~~((the order and the act))~~ chapters 16-561 WAC and 15.65 RCW, along with the necessary authority and procedure for obtaining such information.

(13) Bring actions or proceedings upon joining the director as a party for specific performance, restraint, injunction, or mandatory injunction against any person who violates or refuses to perform the obligations or duties imposed upon him by ~~((the act or the order))~~ chapter 15.65 RCW or 16-561 WAC.

(14) Confer with and cooperate with the legally constituted authorities of other states and of the United States for the purpose of obtaining uniformity in the administration of federal and state marketing regulations, licenses, agreements, or orders.

(15) Authorize the members of a commodity board, or their agents or designees, to participate in federal or state hearings or other proceedings concerning regulation of the manufacture, distribution, sale, or use of any pesticide as defined by RCW 15.58.030 or any agricultural chemical which is of use or potential use in producing the affected commodity, and may authorize the expenditure of commission funds for this purpose.

(16) Work cooperatively with other local, state, and federal agencies; universities; and national organizations for the purposes provided in this order.

(17) Enter into contracts or interagency agreements with any private or public agency, whether federal, state, or local. Personal service contracts must comply with chapter 39.26 RCW.

(18) Accept and expend or retain any gifts, bequests, contributions, or grants from private persons or private and public agencies.

(19) Enter into contracts or agreements for research in the production, irrigation, processing, transportation, marketing, use, or distribution of red raspberries.

(20) Retain in emergent situations the services of private legal counsel to conduct legal actions on behalf of the com-

mission. The retention of a private attorney is subject to review by the office of the attorney general.

(21) Engage in appropriate fund-raising activities for the purpose of supporting activities authorized by this order.

(22) Participate in international, federal, state, and local hearings, meetings, and other proceedings relating to the production, irrigation, manufacture, regulation, transportation, distribution, sale, or use of red raspberries, including activities authorized under RCW 42.17A.635, including the reporting of those activities to the public disclosure commission.

(23) Maintain a list of the names and addresses of affected producers that may be compiled from information used to collect assessments under the provisions of this marketing order and data on the units of each producer's production pursuant to RCW 15.65.295. This list may be compiled from information used to collect producer assessments for a three-year period.

(24) Maintain a list of the names and addresses of persons who handle red raspberries within the affected area and data on the amount of the red raspberries handled by each person pursuant to RCW 15.65.295 for a minimum three-year period.

(25) Establish a foundation using commission funds as grant money for the purposes established in this marketing order.

(26) Acquire or own intellectual property rights, licenses, or patents and to collect royalties resulting from commission-funded research related to red raspberries.

(27) Submit for review and approval by the director of any new or amended marketing, including for the purposes required under RCW 15.65.287.

(28) Carry out any other grant of authority or duty provided designees and not specifically set forth in this section.

#### AMENDATORY SECTION (Amending WSR 14-03-007, filed 1/6/14, effective 2/6/14)

#### **WAC 16-561-040 Assessments and collections. (1) Assessments.**

(a) The annual assessment on all varieties of raspberries ~~for the crop year just concluded~~ shall be ~~((one-half cent per affected unit (pound)))~~ set by the board prior to October 31st. ~~The board has the authority to set the rate within a range of zero to two cents per affected unit (pound).~~

(b) For the purpose of collecting assessments, the board may:

(i) Require handlers to collect producer assessments from producers whose production they handle, and remit the same to the board; or

(ii) Require the person subject to the assessment to give adequate assurance or security for its payment; or

(iii) Require in the case of assessments against affected units stored in frozen condition:

(A) Cold storage facilities storing the commodity to file information and reports with the commission regarding the amount of commodity in storage, the date of receipt, and the name and address of each such owner; and

(B) That the commodity not be shipped from a cold storage facility until the facility has been notified by the commis-

sion that the commodity owner has paid the commission for any assessments imposed by the marketing order.

((e)) (C) Subsequent to the first sale, no affected units shall be transported, carried, shipped, sold, marketed, or otherwise handled or disposed of until every due and payable assessment herein provided for has been paid and the receipt issued. The foregoing shall include all affected units shipped, stored, or sold, both inside and outside the state.

(2) **Collections.** Any moneys collected or received by the board pursuant to the provisions of this order during or with respect to any season or year, may be refunded on a pro rata basis at the close of the season or year or at the close of such longer period as the board determines to be reasonably adapted to effectuate the declared policies of ((this act)) chapter 15.65 RCW and the purposes of this marketing order, to all persons from whom such moneys were collected or received or may be carried over into and used with respect to the next succeeding season, year, or period whenever the board finds that the same will tend to effectuate such policies and purposes.

(3) **Penalties.** Any due and payable assessment herein levied in a specified amount as may be determined by the board pursuant to the provisions of ((the act and the order)) chapters 15.65 RCW and 16-561 WAC, shall constitute a personal debt of every person so assessed or who otherwise owes the same, and the same shall be due and payable to the board when payment is called for by it. In the event any person fails to pay the board the full amount of the assessment or other sum on or before the date due, the board may, and is hereby authorized to, add to such unpaid assessment or sum an amount not exceeding ten percent of the same to defray the cost of enforcing the collecting of it. In the event of failure of such person or persons to pay any such due and payable assessment or other such sum, the board may bring a civil action against such person or persons in a state court of competent jurisdiction for the collection thereof, together with the above specified ten percent, and the action shall be tried and judgment rendered as in any other cause of action for debt due and payable.

**AMENDATORY SECTION** (Amending WSR 86-13-012, filed 6/6/86)

**WAC 16-561-041 Time—Place—Method for payment and collection of assessments.** Effective with the growing season of 1977, the following procedure is established for the reporting and paying of assessments levied pursuant to RCW 15.65.410 and WAC 16-561-040:

(1) All first handlers of raspberries for resale or for processing shall withhold the amount of the assessment from their remittance to growers and transmit same to the commission. Where the first handler does not remit proceeds to the producer, the first handler shall include in his bill for services the assessment due and upon payment by the producer shall remit same to the commission. All such assessments accumulated will be due and payable to the commission ((on or before October 15 of each year)) in four installments payable December 1st of the current calendar year, followed by February 1st, April 1st, and concluding June 1st of the following calendar year. First handlers shall submit to the commission

on or before October ((15)) 1st of each year, a report listing the name, address, pounds handled or purchased, and amount deducted or collected for each producer on forms provided by the commission.

(2) All growers selling raspberries other than to first handlers for resale or processing, whether selling direct or through brokers, and including all sales at retail, shall ((pay the assessment directly to the commission, on or before September 30 of each year)) submit to the commission on or before October 1st of each year, a report listing the pounds produced in the current harvest season on forms provided by the commission, and shall pay the assessment directly to the commission in four installments payable December 1st of the current year, followed by February 1st, April 1st, and concluding June 1st of the following calendar year.

(3) All growers having raspberries in cold storage that are not sold on September 15th of each year, shall compute the assessment due on such berries and pay same to the commission by September 30th of each year.

(4) Any assessments paid after the above deadlines shall be accompanied by a penalty fee of ((10%)) ten percent as provided in RCW 15.65.440 ((of the act)).

**AMENDATORY SECTION** (Amending WSR 93-20-088, filed 10/5/93, effective 11/5/93)

**WAC 16-561-120 ((Implementation.)) Promotional hosting.** The implementation of the rules governing promotional hosting expenditures for the Washington red raspberry commission shall be as follows:

(1) Budget approval. Commission expenditures for agricultural development or trade promotion and promotional hosting shall be pursuant to specific budget items as approved by the commission at regular meetings held to review such matters.

(2) Officials and agents authorized to make expenditures. The following officials and agents are authorized to make expenditures for agricultural development or trade promotion and promotional hosting in accordance with the provisions of these rules:

- (a) Commissioners;
- (b) Administrator;
- (c) Marketing director;
- (d) Contractors, as specifically authorized by the commission.

Individual commissioners shall make promotional hosting expenditures, or seek reimbursements for those expenditures, only in those instances where the expenditures have been approved by the commission.

(3) Payment and reimbursement. All payments and reimbursements shall be identified and supported by vouchers to which receipts are attached. Voucher forms may be supplied by the commission, and shall require the following information:

- (a) Name and position of each person hosted, provided that in case of a group of twenty-five or more persons, then only the name of the group hosted shall be required;
- (b) General purpose of the hosting;
- (c) Date of hosting;
- (d) Location of the hosting;

- (e) To whom payment was or will be made;
- (f) Signature of person seeking payment or reimbursement.

(4) The chairman and vice chairman-treasurer of the commission and the administrator are authorized to approve direct payment or reimbursements submitted in accordance with these rules.

(5) The following persons may be hosted when it is reasonably believed such hosting will cultivate trade relations, promote sales of red raspberries, or develop industry unity, provided that such hosting shall not violate federal or state conflict of interest laws:

- (a) Individuals from private business;
- (b) Foreign government officials;

(c) Federal and state officials, provided lodging, meals and transportation will not be provided when such officials may obtain reimbursement for these expenses from their government employer;

(d) The general public, at meetings and gatherings open to the general public;

(e) Commissioners and employees of the commission when their attendance at meetings, meals, and gatherings at which the persons described in (a) through (d) of this subsection are being hosted will cultivate trade relations, promote sales of red raspberries, or further the objectives of the commission;

(f) Spouses of the persons listed in (a), (b), (c), and (e) of this subsection when attendance of such spouse will serve to cultivate trade relations, promote the sale of red raspberries or develop industry unity.

#### NEW SECTION

**WAC 16-561-125 Description of commission, address and telephone number of the Washington red raspberry commission.** Headquartered at 204 Hawley Street, Lynden, Washington 98264, the Washington red raspberry commission serves Washington red raspberry producers by supporting the red raspberry industry in the areas of research and marketing. The telephone number is 360-354-8767.

#### NEW SECTION

**WAC 16-561-130 Public records officer.** (1) The commission's public records shall be in the charge of the public records officer designated by the commission. The commission or its executive director may appoint a temporary public records officer to serve during the absence of the designated records officer. The public records officer shall be responsible for implementing the commission's rules regarding disclosure of public records, coordination of staff regarding disclosure of public records, and generally ensuring compliance by staff with public records disclosure requirements.

(2) The name of the commission's current public records officer is on file with the office of the code reviser in accordance with RCW 42.56.580 and is published in the *Washington State Register*.

#### NEW SECTION

**WAC 16-561-135 Requests for public records.** (1) All requests for disclosure of public records must be submitted in writing directly to the commission's public records officer by mail to:

Washington Red Raspberry Commission  
204 Hawley Street  
Lynden, WA 98264

The request may also be submitted by fax to 360-354-0948 or by email to info@red-raspberry.org. The written request should include:

- (a) The name, address and telephone number or other contact information of the person requesting the records;
- (b) The calendar date on which the request is made; and
- (c) Sufficient information to readily identify records being requested.

(2) Any person wishing to inspect the commission's public records may make an appointment with the public records officer to inspect the records at the commission office during regular business hours. In order to adequately protect the commission's public records, the following will apply:

(a) Public records made available for inspection may not be removed from the area the commission makes available for inspection;

(b) Inspection of any public record will be conducted in the presence of the public records officer or designee;

(c) Public records may not be marked or altered in any manner during the inspection;

(d) The commission has the discretion to designate the means and the location for the inspection of records. The viewing of those records that require specialized equipment shall be limited to the availability of that equipment located at the commission's office and the availability of authorized staff to operate that equipment.

#### NEW SECTION

**WAC 16-561-140 Response to public records requests.** (1) The public records officer shall respond to public records requests within five business days by:

(a) Making the records available for inspection or copying;

(b) Providing a link or address for a record available on the internet under RCW 42.56.520;

(c) Acknowledging receipt of the request and providing a reasonable estimate of the time the commission will require to respond to the request;

(d) Sending the copies to the requestor if copies are requested and payment of a deposit for the copies is made or terms of payment have been agreed upon; or

(e) Denying the public records request. Responses refusing in whole or in part the inspection of a public record shall include a statement of the specific exemption authorizing withholding of the record, or any part of the record, and a brief explanation of how the exemption applies to the record withheld or to any redactions in records produced.

(2) Additional time to respond to the request may be based upon the need to:

- (a) Clarify the intent of the request;

(b) Locate and assemble the information requested;  
 (c) Notify persons or agencies affected by the request; or  
 (d) Determine whether any of the information requested is exempt from disclosure and that a denial should be made as to all or part of the request.

(3) In acknowledging receipt of a public records request that is unclear, the public records officer may ask the requestor to clarify what records the requestor is seeking. The public records officer is not obligated to provide further response if the requestor fails to clarify the request.

#### NEW SECTION

**WAC 16-561-145 Fees—Inspection and copying.** (1) No fee will be charged for the inspection of public records.

(2) Pursuant to RCW 42.56.120(2), the commission declares for the following reasons that it would be unduly burdensome for it to calculate the actual costs it charges for providing copies of public records: Funds were not allocated for performing a study to calculate actual costs and the commission lacks the necessary funds to perform a study and calculations; staff resources are insufficient to perform a study and to calculate such actual costs; and a study would interfere with and disrupt other essential agency functions.

(3) The commission may charge fees for production of copies of public records consistent with the fee schedule established in RCW 42.56.120. For all copying or duplicating service charges incurred, an invoice will be sent to the requestor. Reimbursement is payable within fifteen days of receipt of invoice payable to the Washington red raspberry commission. The commission may require that all charges be paid in advance of release of the copies of the records.

(4) The commission or its designee may waive any of the foregoing copying costs.

#### NEW SECTION

**WAC 16-561-150 Exemptions.** The commission's public records are available for disclosure except as otherwise provided under chapter 42.56 RCW or any other law. Requestors should be aware of the following exemptions to public disclosure specific to commission records. This list is not exhaustive and other exemptions may apply:

(1) Production or sales records required to determine assessment levels and actual assessment payments to the commission under chapter 15.65 RCW (reference RCW 42.56.380(3)).

(2) Financial and commercial information and records supplied by persons:

(a) To the commission for the purpose of conducting a referendum for the establishment of the commission; or

(b) To the commission under chapter 15.65 RCW with respect to domestic or export marketing activities or individual producer's production information (reference RCW 42.56.380(5)).

(3) Lists of individuals requested for commercial purposes (reference RCW 42.56.070(8)).

(4) Records that are relevant to a controversy to which the commission is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts, including records

involving attorney-client communications between the commission and the office of the attorney general (reference RCW 5.60.060(2)).

#### NEW SECTION

**WAC 16-561-155 Review of denial of public records requests.** (1) Any person who objects to the initial denial of a request to copy or inspect public records may petition the commission for review of such decision by submitting a written request to the commission. The request shall specifically refer to statement which constituted or accompanied the denial.

(2) The commission's executive director or designee shall immediately consider the matter and either affirm or reverse the denial within ten business days following the commission's receipt of the written request for review of the original denial.

(3) Under RCW 42.56.530, if the commission denies a requestor access to public records because it claims the record is exempt in whole or in part from disclosure, the requestor may request the attorney general's office to review the matter.

(4) Any person may obtain court review of a denial of a public records request under RCW 42.56.550.

#### NEW SECTION

**WAC 16-561-160 Records index.** The commission shall establish a records index, which shall be made available for public review.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 16-561-100 Purpose.

WAC 16-561-110 Definitions.

#### **WSR 18-15-010**

#### **PERMANENT RULES**

#### **HEALTH CARE AUTHORITY**

[Filed July 6, 2018, 1:40 p.m., effective September 1, 2018]

**Effective Date of Rule:** September 1, 2018.

**Purpose:** The agency is amending WAC 182-551-3000 Private duty nursing services for clients age seventeen and younger—General, as follows:

- Title renamed to reflect that it contains general information about private duty nursing for clients age seventeen and younger;
- Definition of "private duty nursing" moved to a new section for definitions;
- Information added about receiving services through managed care organizations (MCO);
- Information added about coverage for services when the client has third-party liability (TPL) coverage; and

- Information regarding client eligibility, provider requirements, application requirements, and authorization moved to new sections.

Changes to WAC 182-551-3000 explain that clients receive private duty nursing services through the medically intensive children's program and further clarify how services are provided through MCOs and when clients have TPL coverage.

The agency is creating new WAC 182-551-3050 Private duty nursing services for clients age seventeen and younger—Definitions, to define private duty nursing terms not previously found in WAC. The agency is creating new sections for client eligibility, provider requirements, applica-

tion requirements, and authorization (new WAC 182-551-3100 through 182-551-3400). The rule changes reorganize the private duty nursing rules within chapter 182-551 WAC, revise eligibility criteria, and clarify current agency policy.

Citation of Rules Affected by this Order: New WAC 182-551-3050, 182-551-3100, 182-551-3200, 182-551-3300 and 182-551-3400; and amending WAC 182-551-3000.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 18-02-094 on January 3, 2018.

Changes Other than Editing from Proposed to Adopted Version:

Proposed/ADOPTED	WAC Subsection	Reason
<b>Original WAC 182-551-3100(1)</b>		
Proposed	<p>(1) To be eligible for private duty nursing under the medically intensive children's program (MICP), clients must:</p> <p>(a) Be age seventeen or younger;</p> <p>(b) Have informal support by a person who has been trained to provide designated skilled nursing care and is able to perform the care as required;</p> <p>(c) Have prior authorization from the department of social and health services/developmental disabilities administration (DSS/DDA); and</p> <p>(d) Have exhausted all other funding sources for private duty nursing, according to RCW 74.09.185, prior to accessing these services through the medically intensive children's program (MICP);</p> <p>(e) Meet financial eligibility under subsection (2) of this section;</p> <p>(f) Meet medical eligibility under subsection (3) of this section.</p>	The agency rearranged the subsection to be more logical.
Adopted	<p>(1) To be eligible for private duty nursing under the medically intensive children's program (MICP), clients must:</p> <p>(a) Be age seventeen or younger;</p> <p>(b) <u>Meet financial eligibility under subsection (2) of this section;</u></p> <p>(c) <u>Meet medical eligibility under subsection (3) of this section;</u></p> <p>(d) Have informal support by a person who has been trained to provide designated skilled nursing care and is able to perform the care as required;</p> <p>(ee) Have prior authorization from the department of social and health services/developmental disabilities administration (DSS/DDA); and</p> <p>(ff) Have exhausted all other funding sources for private duty nursing, according to RCW 74.09.185, prior to accessing these services through the medically intensive children's program (MICP);</p> <p>(ee) <u>Meet financial eligibility under subsection (2) of this section;</u></p> <p>(ff) <u>Meet medical eligibility under subsection (3) of this section.</u></p>	
<b>Original WAC 182-551-3200(1)</b>		
Proposed	(1) A home health agency license with the state of Washington to provide private duty nursing;	The agency updated the subsection because the state does not have a home health agency license. Providers receive an in-home services license to provide home health.
Adopted	(1) <u>A home health agency An in-home services</u> license with the state of Washington to provide private duty nursing;	

Proposed/Adopted	WAC Subsection	Reason
<b>Original WAC 182-551-3200(2)</b>		
Proposed	(2) To be financially eligible for private duty nursing, clients must meet medicaid eligibility requirements under the categorically needy program, the medically needy program, or alternative medical program (see WAC 182-501-0060).	The agency corrected the program name.
Adopted	(2) To be financially eligible for private duty nursing, clients must meet medicaid eligibility requirements under the categorically needy program, the medically needy program, or alternative <u>medical benefits plan</u> program (see WAC 182-501-0060).	

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 5, Amended 1, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 5, Amended 1, Repealed 0.

Date Adopted: July 6, 2018.

Wendy Barcus  
Rules Coordinator

**AMENDATORY SECTION** (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

**WAC 182-551-3000 Private duty nursing ((services)) for clients age seventeen ((years of age)) and younger—General.** ((This section applies to private duty nursing services for eligible clients on fee-for-service programs.)) (1) The medically intensive children's program (MICP) provides private duty nursing to clients, either through fee-for-service or an agency-contracted managed care organization (MCO).

(2) The MICP is available to clients age seventeen and younger, whose complex medical needs cannot be managed within the scope of intermittent home health services.

(3) Managed care clients receive private duty nursing services through their ((plans)) agency-contracted MCO. (See chapter ((388-538)) 182-538 WAC). ((+) "Private duty nursing" means four hours or more of continuous skilled nursing services provided in the home to eligible clients with complex medical needs that cannot be managed within the scope of intermittent home health services. Skilled nursing service is the management and administration of the treatment and care of the client, and may include, but is not limited to:

(a) Assessments (e.g., respiratory assessment, patency of airway, vital signs, feeding assessment, seizure activity, hydration, level of consciousness, constant observation for comfort and pain management);

(b) Administration of treatment related to technological dependence (e.g., ventilator, tracheotomy, bilevel positive airway pressure, intravenous (IV) administration of medications and fluids, feeding pumps, nasal stints, central lines);

(c) Monitoring and maintaining parameters/machinery (e.g., oximetry, blood pressure, lab draws, end tidal CO<sub>2</sub>s, ventilator settings, humidification systems, fluid balance, etc.); and

(d) Interventions (e.g., medications, suctioning, IV's, hyperalimentation, enteral feeds, ostomy care, and tracheostomy care).

(2) To be eligible for private duty nursing services, a client must meet all the following:

(a) Be seventeen years of age or younger (see chapter 388-71 WAC for information about private duty nursing services for clients eighteen years of age and older);

(b) Be eligible for categorically needy (CN) or medically needy (MN) scope of care (see WAC 388-501-0060 and 388-501-0065);

(c) Need continuous skilled nursing care that can be provided safely outside an institution; and

(d) Have prior authorization from the department.

(3) The department contracts only with home health agencies licensed by Washington state to provide private duty nursing services and pays a rate established by the department according to current funding levels.

(4) A provider must coordinate with a division of developmental disabilities case manager and request prior authorization by submitting a complete referral to the department, which includes all of the following:

(a) The client's age, medical history, diagnosis, and current prescribed treatment plan, as developed by the individual's physician;

(b) Current nursing care plan that may include copies of current daily nursing notes that describe nursing care activities;

(c) An emergency medical plan which includes notification of electric, gas and telephone companies as well as local fire department;

(d) Psycho-social history/summary which provides the following information:

(i) Family constellation and current situation;

(ii) Available personal support systems;

(iii) Presence of other stresses within and upon the family; and

(iv) Projected number of nursing hours needed in the home, after discussion with the family or guardian.

~~(e) A written request from the client or the client's legally authorized representative for home care.~~

~~(5) The department approves requests for private duty nursing services for eligible clients on a case by case basis when:~~

~~(a) The information submitted by the provider is complete;~~

~~(b) The care provided will be based in the client's home;~~

~~(c) Private duty nursing will be provided in the most cost effective setting;~~

~~(d) An adult family member, guardian, or other designated adult has been trained and is capable of providing the skilled nursing care;~~

~~(e) A registered or licensed practical nurse will provide the care under the direction of a physician; and~~

~~(f) Based on the referral submitted by the provider, the department determines:~~

~~(i) The services are medically necessary for the client because of a complex medical need that requires continuous skilled nursing care which can be provided safely in the client's home;~~

~~(ii) The client requires more nursing care than is available through the home health services program; and~~

~~(iii) The home care plan is safe for the client.~~

~~(6) Upon approval, the department will authorize private duty nursing services up to a maximum of sixteen hours per day except as provided in subsection (7) of this section, restricted to the least costly equally effective amount of care.~~

~~(7) The department may authorize additional hours:~~

~~(a) For a maximum of thirty days if any of the following apply:~~

~~(i) The family or guardian is being trained in care and procedures;~~

~~(ii) There is an acute episode that would otherwise require hospitalization, and the treating physician determines that noninstitutionalized care is still safe for the client;~~

~~(iii) The family or guardian caregiver is ill or temporarily unable to provide care;~~

~~(iv) There is a family emergency; or~~

~~(v) The department determines it is medically necessary.~~

~~(b) After the department evaluates the request according to the provisions of WAC 388-501-0165 and 388-501-0169.~~

~~(8) The department adjusts the number of authorized hours when the client's condition or situation changes.~~

~~(9) Any hours of nursing care in excess of those authorized by the department are the responsibility of the client, family or guardian.) Providers must follow the policies and procedures of the client's MCO, including the authorization of services.~~

~~(4) For clients with third-party liability (TPL) coverage (see WAC 182-500-0105) that includes private duty nursing, the procedures and policies in subchapter III, titled Private Duty Nursing, apply when determining coverage of additional hours under MICP.~~

#### NEW SECTION

**WAC 182-551-3050 Private duty nursing for clients age seventeen and younger—Definitions.** The following

definitions and those found in chapter 182-500 WAC apply to this subchapter.

**"Nursing care consultant"** means a registered nurse employed by the department of social and health services (DSHS) to evaluate clinical eligibility for the medically intensive children's program (MICP) and provide a written assessment summary.

**"Private duty nursing"** means skilled nursing care and services provided in the home for clients with complex medical needs that cannot be managed within the scope of intermittent home health services.

**"Skilled nursing care"** means the medical care provided by a licensed nurse or delegate working under the direction of a physician as described in RCW 18.79.260.

**"Skilled nursing services"** means the management and administration of skilled nursing care requiring the specialized judgment, knowledge, and skills of a registered nurse or licensed practical nurse as described in RCW 18.79.040 and 18.79.060.

#### NEW SECTION

**WAC 182-551-3100 Private duty nursing for clients age seventeen and younger—Client eligibility.** (1) To be eligible for private duty nursing under the medically intensive children's program (MICP), clients must:

(a) Be age seventeen or younger;

(b) Meet financial eligibility under subsection (2) of this section;

(c) Meet medical eligibility under subsection (3) of this section;

(d) Have informal support by a person who has been trained to provide designated skilled nursing care and is able to perform the care as required;

(e) Have prior authorization from the department of social and health services/developmental disabilities administration (DSHS/DDA); and

(f) Have exhausted all other funding sources for private duty nursing, according to RCW 74.09.185, prior to accessing these services through the medically intensive children's program (MICP).

(2) To be financially eligible for private duty nursing, clients must meet medicaid eligibility requirements under the categorically needy program, the medically needy program, or alternative benefits plan program (see WAC 182-501-0060).

(3) To be medically eligible for private duty nursing under fee-for-service, clients must be assessed by a DSHS/DDA nursing care consultant and determined medically eligible for MICP.

(4) Clients must meet the following criteria to be medically eligible for MICP:

(a) Require four or more continuous hours of active skilled nursing care with consecutive tasks at a level that:

(i) Cannot be delegated at the time of the initial assessment; and

(ii) Can be provided safely outside of a hospital in a less restrictive setting.

(b) Require two or more tasks of complex skilled nursing care such as:

(i) System assessments, including multistep approaches of systems (e.g., respiratory assessment, airway assessment, vital signs, nutritional and hydration assessment, complex gastrointestinal assessment and management, seizure management requiring intervention, or level of consciousness);

(ii) Administration of treatment for complex respiratory issues related to technological dependence requiring multi-step approaches on a day-to-day basis (e.g., ventilator tracheostomy);

(iii) Assessment of complex respiratory issues and interventions with use of oximetry, titration of oxygen, ventilator settings, humidification systems, fluid balance, or any other cardiopulmonary critical indicators based on medical necessity;

(iv) Skilled nursing interventions of intravenous/parenteral administration of multiple medications and nutritional substances on a continuing or intermittent basis with frequent interventions; or

(v) Skilled nursing interventions of enteral nutrition and medications requiring multistep approaches daily.

#### NEW SECTION

**WAC 182-551-3200 Private duty nursing for clients age seventeen and younger—Provider requirements.** Providers qualified to deliver private duty nursing under the medically intensive children's program must have the following:

(1) An in-home services license with the state of Washington to provide private duty nursing;

(2) A contract with the department of social and health services/developmental disabilities administration (DSHS/DDA) to provide private duty nursing; and

(3) A signed core provider agreement with the medicaid agency.

#### NEW SECTION

**WAC 182-551-3300 Private duty nursing for clients age seventeen and younger—Application requirements.** Clients requesting private duty nursing through fee-for-service must submit a complete signed medically intensive children's program (MICP) application (DSHS form 15-398). The MICP application must include the following:

(1) DSHS 14-012 consent form;

(2) DSHS 14-151 request for DDA eligibility determination form for clients not already determined DDA eligible;

(3) DSHS 03-387 notice of practices for client medical information;

(4) Appropriate and current medical documentation including medical plan of treatment or plan of care (WAC 246-335-080) with the client's age, medical history, diagnoses, and the parent/guardian contact information including address and phone number;

(5) A list of current treatments or treatment records;

(6) Information about ventilator, bilevel positive airway pressure (BiPAP), or continuous positive airway pressure (CPAP) hours per day or frequency of use;

(7) History and physical from current hospital admission, recent discharge summary, or recent primary physician exam;

(8) A recent interim summary, discharge summary, or clinical summary;

(9) Recent nursing charting within the past five to seven days of hospitalization or in-home nursing documentation;

(10) Current nursing care plan that may include copies of current daily nursing notes that describe nursing care activities;

(11) An emergency medical plan that includes strategies to address loss of power and environmental disasters such as methods to maintain life-saving medical equipment supporting the client. The plan may include notification of electric and gas companies and the local fire department;

(12) A psycho-social history/summary with the following information, as available:

(a) Family arrangement and current situation;

(b) Available personal support systems; and

(c) Presence of other stresses within and upon the family.

(13) Statement that the home care plan is safe for the child and is agreed to by the child's parent or legal guardian;

(14) Information about other family supports such as medicaid, school hours, or hours paid by a third-party insurance or trust; and

(15) For a client with third-party insurance or a managed care organization (MCO), a denial letter from the third-party insurance or MCO that states the private duty nursing will not be covered.

#### NEW SECTION

**WAC 182-551-3400 Private duty nursing for clients age seventeen and younger—Authorization.** (1) Private duty nursing when provided through fee-for-service requires prior authorization from the department of social and health services/developmental disabilities administration (DSHS/DDA).

(2) DSHS/DDA authorizes requests for private duty nursing on a case-by-case basis when:

(a) The application requirements under WAC 182-551-3300 are met; and

(b) The nursing care consultant determines the services to be medically necessary, as defined in WAC 182-500-0070 and according to the process in WAC 182-501-0165.

(3) DSHS/DDA authorizes only the number of private duty nursing hours that are medically necessary.

(a) Services are limited to sixteen hours of private duty nursing per day.

(b) DSHS/DDA may adjust the number of authorized hours when the client's condition or situation changes.

(c) Additional hours beyond sixteen per day are subject to review as a limitation extension under WAC 182-501-0169.

(4) Private duty nursing provided to the client in excess of the authorized hours may be the financial responsibility of the client, the client's family, or the client's guardian. Providers must follow the provisions of WAC 182-502-0160.

**WSR 18-15-014**  
**PERMANENT RULES**  
**WASHINGTON STATE**  
**SCHOOL FOR THE BLIND**

[Filed July 9, 2018, 8:54 a.m., effective August 9, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The purpose of this rule is to comply with the 2017 legislative amendment to RCW 42.56.120, section 3, chapter 304, Laws of 2017, that requires that effective July 23, 2017, if an agency uses the new law's amended statutory default copy fee schedule (rather than determining actual costs of copies), the agency must have a rule declaring the reason it is not calculating actual costs is because to do so would be unduly burdensome. The School for the Blind is not calculating actual costs for copying records because to do so would be unduly burdensome and new WAC 72-276-095 makes those findings. The School for the Blind is adopting new WAC 72-276-095 so it can use the statutory default copy fee schedule. In addition, RCW 42.56.120 as amended by section 3, chapter 304, Laws of 2017, allows an agency to waive any charge assessed for a public record pursuant to agency rule. WAC 72-276-095 also provides for fee waivers. The purpose of the new rule is to address waiver of charges assessed for a public record and continue to explain the procedures for payment for copies. Finally, the School for the Blind is repealing WAC 72-276-090, its copying fees rule originally adopted under former chapter 42.17 RCW because that rule is now outdated.

Citation of Rules Affected by this Order: New WAC 72-276-095; and repealing WAC 72-276-090.

Statutory Authority for Adoption: RCW 42.56.040, 42.56.070, 42.56.100, 42.56.120 (as amended by chapter 304, Laws of 2017).

Adopted under notice filed as WSR 17-23-083 [on November 14, 2017] and WSR 18-10-056 on April 27, 2018.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 0, Repealed 1.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 0, Repealed 1.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: July 9, 2018.

Scott McCallum  
 Superintendent

**NEW SECTION**

**WAC 72-276-095 Copying fees—Payments.** (1) The following copy fees and payment procedures apply to requests to the school under chapter 42.56 RCW.

(2) Pursuant to RCW 42.56.120 (2)(b), the school is not calculating all actual costs for copying records because to do so would be unduly burdensome for the following reasons:

(a) The school does not have the resources to conduct a study to determine all its actual copying costs;

(b) To conduct such a study would interfere with other essential agency functions; and

(c) Through the 2017 legislative process, the public and requestors have commented on and been informed of authorized fees and costs, including for electronic records, provided in RCW 42.56.120 (2)(b) and (c), (3) and (4).

(3) The school will charge for copies of records pursuant to the default fees in RCW 42.56.120 (2)(b) and (c). The school will charge for customized services pursuant to RCW 42.56.120(3). Under RCW 42.56.130, the school may charge other copy fees authorized by statutes outside of chapter 42.56 RCW. The school may enter into an alternative fee agreement with a requestor under RCW 42.56.120(4). The charges for copying methods used by the school are summarized in the fee schedule available on the school's web site at [www.wssb.wa.gov](http://www.wssb.wa.gov).

(4) Requestors may be required to pay for copies in advance of receiving records. Fee waivers are an exception and are available for some small requests under the following conditions:

(a) It is within the discretion of the public records officer to waive copying fees when:

(i) All of the records responsive to an entire request are paper copies only and are twenty-five or fewer pages; or

(ii) All of the records responsive to an entire request are electronic and can be provided in a single email with attachments of a size totaling no more than the equivalent of one hundred printed pages. If that email for any reason is not deliverable, records will be provided through another means of delivery, and the requestor will be charged in accordance with this rule.

(b) Fee waivers are not applicable to records provided in installments.

(5) The public records officer may require an advance deposit of ten percent of the estimated fees when the copying fees for an installment or an entire request, or customized service charge, exceeds twenty-five dollars.

(6) When requestors are required to pay in advance, fees must be paid in advance of release of the copies or an installment of copies, or in advance of when a deposit is required. The school will notify the requestor of when payment is due.

(7) Payment should be made by check or money order to the Washington State School for the Blind. The school prefers not to receive cash. For cash payments, it is within the public records officer's discretion to determine the denomination of bills and coins that will be accepted.

(8) The school will close a request when a requestor fails by the payment date to pay in the manner prescribed for records, an installment of records, or a required deposit.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 72-276-090 Costs of providing copies of public records.

**WSR 18-15-017**  
**PERMANENT RULES**  
**DEPARTMENT OF HEALTH**

[Filed July 9, 2018, 4:50 p.m., effective August 9, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Chapter 246-236 WAC, Licenses and radiation safety requirements for irradiators, the adopted rule chapter incorporates United States Nuclear Regulatory Commission's rules to be consistent with 10 Code of Federal Regulations Part 36 - Licenses and radiation safety requirements for irradiators.

Citation of Rules Affected by this Order: New WAC 246-236-001, 246-236-005, 246-236-011, 246-236-013, 246-236-015, 246-236-017, 246-236-019, 246-236-021, 246-236-023, 246-236-025, 246-236-027, 246-236-029, 246-236-031, 246-236-033, 246-236-035, 246-236-037, 246-236-039, 246-236-041, 246-236-051, 246-236-053, 246-236-055, 246-236-057, 246-236-059, 246-236-061, 246-236-063, 246-236-065, 246-236-067, 246-236-069, 246-236-081, and 246-236-083.

Statutory Authority for Adoption: RCW 70.98.050 and 70.98.110.

Other Authority: 58 F.R. 7728, 76 F.R. 56963, 77 F.R. 39906, 80 F.R. 54234.

Adopted under notice filed as WSR 18-08-063 on April 2, 2018.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 31, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 31, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 31, Amended 0, Repealed 0.

Date Adopted: July 6, 2018.

Clark Halvorson  
 Assistant Secretary

**Chapter 246-236 WAC****LICENSES AND RADIATION SAFETY REQUIREMENTS FOR IRRADIATORS****GENERAL PROVISIONS****NEW SECTION**

**WAC 246-236-001 Purpose and scope.** (1) The purpose of this chapter is to:

(a) Establish requirements for the issuance of a license authorizing the use of sealed sources containing radioactive materials in irradiators used to irradiate objects or materials using gamma radiation;

(b) Establish radiation safety requirements for operating irradiators.

(2) This chapter applies to panoramic or beam-type irradiators that have either dry or wet storage of the radioactive sealed sources and to underwater irradiators in which both the source and the product being irradiated are under water.

(3) This chapter applies to irradiators whose dose rates exceed five grays (five hundred rads) per hour at one meter from the radioactive sealed sources in air or in water, as applicable for the irradiator type.

(4) This chapter does not apply to self-contained dry-source-storage irradiators (those in which both the source and the area subject to irradiation are contained within a device and are not accessible by personnel), medical radiology or teletherapy, radiography (the irradiation of materials for non-destructive testing purposes), gauging, or open-field (agricultural) irradiations.

(5) The requirements of this chapter apply to applications and licenses subject to this chapter and are in addition to other requirements of the following chapters:

(a) Chapter 246-220 WAC, Radiation protection—General provisions;

(b) Chapter 246-221 WAC, Radiation protection standards;

(c) Chapter 246-222 WAC, Radiation protection—Worker rights;

(d) Chapter 246-231 WAC, Packaging and transportation of radioactive material;

(e) Chapter 246-232 WAC, Radioactive material—Licensing applicability;

(f) Chapter 246-235 WAC, Radioactive materials—Specific licenses;

(g) Chapter 246-237 WAC, Radiation protection—Physical protection of category 1 and category 2 quantities of radioactive material; and

(h) Chapter 246-254 WAC, Radiation protection—Fees.

(6) Nothing in this chapter relieves the licensee from complying with other applicable federal, state, and local regulations governing the siting, zoning, land use, and building code requirements for industrial facilities.

**NEW SECTION**

**WAC 246-236-005 Interpretations.** Except as specifically authorized by the department in writing, no interpretation of the meaning of this chapter by any officer or employee

of the department, other than a written interpretation by the Washington state office of the attorney general, will be recognized to be binding upon the department.

#### NEW SECTION

**WAC 246-236-010 Definitions, abbreviations, and acronyms.** The definitions, abbreviations, and acronyms in this section apply throughout this chapter unless the context clearly indicates otherwise.

(1) **"Annually"** means either:

(a) At intervals not to exceed one year; or

(b) Once per year, at about the same time each year (plus or minus one month).

(2) **"Commencement of construction"** means taking any action defined as "construction" or any other activity at the site of a facility subject to this chapter that has a reasonable nexus to radiological health and safety.

(3) **"Construction"** means the installation of foundations, or in-place assembly, erection, fabrication, or testing for any structure, system, or component of a facility or activity subject to this chapter that are related to radiological safety or security. The term "construction" does not include:

(a) Changes for temporary use of the land for public recreational purposes;

(b) Site exploration, including necessary borings to determine foundation conditions or other preconstruction monitoring to establish background information related to the suitability of the site, the environmental impacts of construction or operation, or the protection of environmental values;

(c) Preparation of the site for construction of the facility, including clearing of the site, grading, installation of drainage, erosion and other environmental mitigation measures, and construction of temporary roads and borrow areas;

(d) Erection of fences and other access control measures that are not related to the safe use of, or security of, radiological materials subject to this chapter;

(e) Excavation;

(f) Erection of support buildings (e.g., construction equipment storage sheds, warehouse and shop facilities, utilities, concrete mixing plants, docking and unloading facilities, and office buildings) for use in connection with the construction of the facility;

(g) Building of service facilities (e.g., paved roads, parking lots, railroad spurs, exterior utility and lighting systems, potable water systems, sanitary sewerage treatment facilities, and transmission lines);

(h) Procurement or fabrication of components or portions of the proposed facility occurring at other than the final, in-place location at the facility; or

(i) Taking any other action that has no reasonable nexus to radiological health and safety.

(4) **"Department"** means the Washington state department of health.

(5) **"Doubly encapsulated sealed source"** means a sealed source in which the radioactive material is sealed within a capsule and that capsule is sealed within another capsule.

(6) **"Irradiator"** means a facility that uses radioactive sealed sources for the irradiation of objects or materials and

in which radiation dose rates exceeding five grays (five hundred rads) per hour exist at one meter from the sealed radioactive sources in air or water, as applicable for the irradiator type, but does not include irradiators in which both the sealed source and the area subject to irradiation are contained within a device and are not accessible to personnel.

(7) **"Irradiator operator"** means an individual who has successfully completed the training and testing described in WAC 246-236-051 and is authorized by the terms of the license to operate the irradiator without a supervisor present.

(8) **"NRC"** means the U.S. Nuclear Regulatory Commission.

(9) **"Panoramic or beam-type dry-source-storage irradiator"** means an irradiator in which the irradiations occur in air in areas potentially accessible to personnel and in which the sources are stored in shields made of solid materials. The term includes beam-type dry-source-storage irradiators in which only a narrow beam of radiation is produced for performing irradiations.

(10) **"Panoramic or beam-type irradiator"** means an irradiator in which the irradiations are done in air in areas potentially accessible to personnel.

(11) **"Panoramic wet-source-storage irradiator"** means an irradiator in which the irradiations occur in air in areas potentially accessible to personnel and in which the sources are stored under water in a storage pool.

(12) **"Pool irradiator"** means any irradiator at which the sources are stored or used in a pool of water including panoramic wet-source-storage irradiators and underwater irradiators.

(13) **"Product conveyor system"** means a system for moving the product to be irradiated to, from, and within the area where irradiation takes place.

(14) **"Radiation room"** means a shielded room in which irradiations take place. Underwater irradiators do not have radiation rooms.

(15) **"Radiation safety officer"** means an individual with responsibility for the overall radiation safety program at the facility.

(16) **"Sealed source"** means any radioactive material that is used as a source of radiation and is encased in a capsule designed to prevent leakage or escape of the radioactive material.

(17) **"Seismic area"** means any area where the probability of a horizontal acceleration in rock of more than three-tenths times the acceleration of gravity in two hundred fifty years is greater than ten percent, as designated by the United States geological survey.

(18) **"Underwater irradiator"** means an irradiator in which the sources always remain shielded under water and humans do not have access to the sealed sources or the space subject to irradiation without entering the pool.

#### SPECIFIC LICENSING REQUIREMENTS

#### NEW SECTION

**WAC 246-236-011 Application for a specific license.** A person, as defined in WAC 246-220-010, may file an application for a specific license authorizing the use of sealed

sources in an irradiator on a form approved for this purpose by the department.

(1) Each application for a license must be accompanied by the fee prescribed in chapter 246-254 WAC.

(2) The application must be sent to the department.

#### NEW SECTION

##### **WAC 246-236-013 Specific licenses for irradiators.**

The department shall approve an application for a specific license for the use of licensed material in an irradiator if the applicant meets the following requirements:

(1) The applicant shall satisfy the general requirements specified in WAC 246-235-020 and 246-235-030, and the requirements in this chapter.

(2) The application must describe the training provided to irradiator operators including:

- (a) Classroom training;
- (b) On-the-job or simulator training;
- (c) Safety reviews;

(d) Means employed by the applicant to test each operator's understanding of the department's rules and licensing requirements and the irradiator operating and emergency procedures; and

(e) Minimum training and experience of personnel who may provide training.

(3) The application must include an outline of the written operating and emergency procedures listed in WAC 246-236-053 that describes the radiation safety aspects of the procedures.

(4) The application must describe the organizational structure for managing the irradiator, specifically the radiation safety responsibilities and authorities of the radiation safety officer and those management personnel who have important radiation safety responsibilities or authorities. In particular, the application must specify who, within the management structure, has the authority to stop unsafe operations. The application must also describe the training and experience required for the position of radiation safety officer.

(5) The application must include a description of the access control systems required by WAC 246-236-023, the radiation monitors required by WAC 246-236-029, the method of detecting leaking sources required by WAC 246-236-059 including the sensitivity of the method, and a diagram of the facility that shows the locations of all required interlocks and radiation monitors.

(6) If the applicant intends to perform leak testing of dry-source-storage sealed sources, the applicant shall establish procedures for leak testing and submit a description of these procedures to the department. The description must include the:

- (a) Instruments to be used;
- (b) Methods of performing the analysis; and
- (c) Pertinent experience of the individual who analyzes the samples.

(7) If licensee personnel are to load or unload sources, the applicant shall describe the qualifications and training of the personnel and the procedures to be used. If the applicant intends to contract for source loading or unloading at its facil-

ity, the loading or unloading must be done by an organization specifically authorized by the NRC or an agreement state to load or unload irradiator sources.

(8) The applicant shall describe the inspection and maintenance checks, including the frequency of the checks required by WAC 246-236-061.

#### NEW SECTION

##### **WAC 246-236-015 Commencement of construction.**

(1) Commencement of construction of a new irradiator may not occur prior to the submission to the department of both an application for a license for the irradiator and the fee required by chapter 246-254 WAC.

(2) Any activities undertaken prior to the issuance of a license are entirely at the risk of the applicant and have no bearing on the issuance of a license with respect to the requirements of chapter 70.98 RCW, and rules and administrative orders issued under chapters 34.05 and 70.98 RCW.

(3) Commencement of construction as defined in WAC 246-236-010 may include nonconstruction activities if the activity has a reasonable nexus to radiological safety and security.

#### NEW SECTION

##### **WAC 246-236-017 Applications for exemptions.**

(1) The department may, upon application of any interested person or upon its own initiative, grant any exemptions from the requirements in this chapter that the department determines are authorized by law and will not endanger life or property and are otherwise in the public interest.

(2) Any application for a license or for amendment of a license authorizing use of a teletherapy-type unit for irradiation of materials or objects may include proposed alternatives to the requirements of this chapter. The department shall approve the proposed alternatives if the applicant provides adequate rationale for the proposed alternatives and demonstrates the alternatives are likely to provide an adequate level of safety for workers and the public.

#### NEW SECTION

##### **WAC 246-236-019 Request for written statements.**

(1) After the filing of the original application, the department may request further information necessary to enable the department to determine whether the application should be granted or denied.

(2) Each license is issued with the condition that the licensee will, at any time before expiration of the license, upon the department's request, submit written statements to enable the department to determine whether the license should be modified, suspended, or revoked.

## DESIGN AND PERFORMANCE REQUIREMENTS FOR IRRADIATORS

### NEW SECTION

**WAC 246-236-021 Performance criteria for sealed sources.** (1) Requirements. Sealed sources installed after July 1, 1993, must meet the following requirements:

(a) Must have a certificate of registration issued under 10 C.F.R. 32.210;

(b) Must be doubly encapsulated;

(c) Must use radioactive material that is as nondispersible as practical and that is as insoluble as practical if the source is used in a wet-source-storage irradiator or underwater irradiator;

(d) Must be encapsulated in a material resistant to general corrosion and to localized corrosion, such as 316L stainless steel or other material with equivalent resistance if the sources are for use in irradiator pools; and

(e) In prototype testing of the sealed source, must have been leak tested and found leak-free after each of the tests described in subsections (2) through (7) of this section.

(2) Temperature. The test source must be held at minus forty degrees Celsius for twenty minutes, six hundred degrees Celsius for one hour, and then be subjected to a thermal shock test with a temperature drop from six hundred degrees Celsius to twenty degrees Celsius within fifteen seconds.

(3) Pressure. The test source must be twice subjected for at least five minutes to an external pressure (absolute) of two million newtons per square meter.

(4) Impact. A two-kilogram steel weight, two and one-half centimeters in diameter, must be dropped from a height of one meter onto the test source.

(5) Vibration. The test source must be subjected three times for ten minutes each to vibrations sweeping from twenty-five hertz to five hundred hertz with a peak amplitude of five times the acceleration of gravity. In addition, each test source must be vibrated for thirty minutes at each resonant frequency found.

(6) Puncture. A fifty-gram weight and pin, three-tenths-centimeter pin diameter, must be dropped from a height of one meter onto the test source.

(7) Bend. If the length of the source is more than fifteen times larger than the minimum cross-sectional dimension, the test source must be subjected to a force of two thousand newtons at its center equidistant from two support cylinders, the distance between which is ten times the minimum cross-sectional dimension of the source.

### NEW SECTION

**WAC 246-236-023 Access control.** (1) Each entrance to a radiation room at a panoramic or beam-type irradiator must have a door or other physical barrier to prevent inadvertent entry of personnel if the sources are not in the shielded position. Product conveyor systems may serve as barriers as long as they reliably and consistently function as a barrier. It must not be possible to move the sources out of their shielded position if the door or barrier is open. Opening the door or barrier while the sources are exposed must cause the sources

to return promptly to their shielded position. The personnel entrance door or barrier must have a lock that is operated by the same key used to move the sources. The doors and barriers must not prevent any individual in the radiation room from leaving.

(2) In addition, each entrance to a radiation room at a panoramic or beam-type irradiator must have an independent backup access control to detect personnel entry while the sources are exposed. Detection of entry while the sources are exposed must cause the sources to return to their fully shielded position and must also activate a visible and audible alarm to make the individual entering the room aware of the hazard. The alarm must also alert at least one other individual who is on-site of the entry. That individual shall be trained on how to respond to the alarm and prepared to promptly render or summon assistance.

(3) A radiation monitor must be provided to detect the presence of high radiation levels in the radiation room of a panoramic or beam-type irradiator before personnel entry. The monitor must be integrated with personnel access door locks to prevent room access when radiation levels are high. Attempted personnel entry while the monitor measures high radiation levels must activate the alarm described in subsection (2) of this section. The monitor may be located in the entrance (normally referred to as the maze) but not in the direct radiation beam.

(4) Before the sources move from their shielded position in a panoramic or beam-type irradiator, the source control must automatically activate conspicuous visible and audible alarms to alert people in the radiation room that the sources will be moved from their shielded position. The alarms must give individuals enough time to leave the room before the sources leave the shielded position.

(5) Each radiation room at a panoramic or beam-type irradiator must have a clearly visible and readily accessible control that would allow an individual in the room to make the sources return to their fully shielded position.

(6) Each radiation room of a panoramic or beam-type irradiator must contain a control that prevents the sources from moving from the shielded position unless the control has been activated and the door or barrier to the radiation room has been closed within a preset time after activation of the control.

(7) Each entrance to the radiation room of a panoramic or beam-type irradiator and each entrance to the area within the personnel access barrier of an underwater irradiator must be posted as required by WAC 246-221-120. Radiation postings for panoramic or beam-type irradiators must comply with the posting requirements of WAC 246-221-120, except that signs may be removed, covered, or otherwise made inoperative when the sources are fully shielded.

(8) If the radiation room of a panoramic or beam-type irradiator has roof plugs or other movable shielding, it must not be possible to operate the irradiator unless the shielding is in its proper location. This requirement may be met by interlocks that prevent operation if shielding is not placed properly or by an operating procedure requiring inspection of shielding before operating.

(9) Underwater irradiators must have a personnel access barrier around the pool which must be locked to prevent

access when the irradiator is not attended. Only operators and facility management may have access to keys to the personnel access barrier. There must be an intrusion alarm to detect unauthorized entry when the personnel access barrier is locked. Activation of the intrusion alarm must alert an individual (not necessarily on-site) who is prepared to respond or summon assistance.

#### NEW SECTION

**WAC 246-236-025 Shielding.** (1) The radiation dose rate in areas that are normally occupied during operation of a panoramic or beam-type irradiator may not exceed two-hundredths millisievert (two millirems) per hour at any location thirty centimeters or more from the wall of the room when the sources are exposed. The dose rate must be averaged over an area not to exceed one hundred square centimeters having no linear dimension greater than twenty centimeters. Areas where the radiation dose rate exceeds two-hundredths millisievert (two millirems) per hour must be locked, roped off, or posted.

(2) The radiation dose at thirty centimeters over the edge of the pool of a pool irradiator may not exceed two-hundredths millisievert (two millirems) per hour when the sources are in the fully shielded position.

(3) The radiation dose rate at one meter from the shield of a panoramic or beam-type dry-source-storage irradiator when the source is shielded may not exceed two-hundredths millisievert (two millirems) per hour and at five centimeters from the shield may not exceed two-tenths millisievert (twenty millirems) per hour.

#### NEW SECTION

**WAC 246-236-027 Fire protection.** (1) The radiation room at a panoramic or beam-type irradiator must have heat and smoke detectors. The detectors must activate an audible alarm. The alarm must be capable of alerting a person who is prepared to summon assistance promptly. The sources must automatically become fully shielded if a fire is detected.

(2) The radiation room at a panoramic or beam-type irradiator must be equipped with a fire extinguishing system capable of extinguishing a fire without the entry of personnel into the room. The system for the radiation room must have a shut-off valve to control flooding into unrestricted areas.

#### NEW SECTION

**WAC 246-236-029 Radiation monitors.** (1) Irradiators with automatic product conveyor systems must have a radiation monitor with an audible alarm located to detect loose radioactive sources that are carried toward the product exit. If the monitor detects a source, an alarm must sound and product conveyors must stop automatically. The alarm must be capable of alerting an individual in the facility who is prepared to summon assistance. Underwater irradiators in which the product moves within an enclosed stationary tube are exempt from the requirements of this subsection.

(2) Underwater irradiators that are not in a shielded radiation room must have a radiation monitor over the pool to detect abnormal radiation levels. The monitor must have an

audible alarm and a visible indicator at entrances to the personnel access barrier around the pool. The audible alarm may have a manual shut-off. The alarm must be capable of alerting an individual who is prepared to respond promptly.

#### NEW SECTION

**WAC 246-236-031 Control of source movement.** (1)

The mechanism that moves the sources of a panoramic or beam-type irradiator must require a key to actuate. Actuation of the mechanism must cause an audible signal to indicate that the sources are leaving the shielded position. Only one key may be in use at any time, and only operators or facility management may possess it. The key must be attached to a portable radiation survey meter by a chain or cable. The lock for source control must be designed so that the key may not be removed if the sources are in an unshielded position. The door to the radiation room must require the same key.

(2) The console of a panoramic or beam-type irradiator must have a source position indicator that indicates when the sources are in the fully shielded position, when they are in transit, and when the sources are exposed.

(3) The control console of a panoramic or beam-type irradiator must have a control that promptly returns the sources to the shielded position.

(4) Each control for a panoramic or beam-type irradiator must be clearly marked as to its function.

#### NEW SECTION

**WAC 246-236-033 Irradiator pools.** (1) For licenses initially issued after July 1, 1993, irradiator pools must either:

(a) Have a water-tight stainless steel liner or a liner metallurgically compatible with other components in the pool; or

(b) Be constructed so that there is a low likelihood of substantial leakage and have a surface designed to facilitate decontamination. In either case, the licensee shall have a method to safely store the sources during repairs of the pool.

(2) For licenses initially issued after July 1, 1993, irradiator pools must have no outlets more than one-half meter below the normal low water level that could allow water to drain out of the pool. Pipes that have intakes more than one-half meter below the normal low water level and that could act as siphons must have siphon breakers to prevent the siphoning of pool water.

(3) A means must be provided to replenish water losses from the pool.

(4) A visible indicator must be provided in a clearly visible location to indicate if the pool water level is below the normal low water level or above the normal high water level.

(5) Irradiator pools must be equipped with a purification system designed to be capable of maintaining the water during normal operation at a conductivity of twenty microsiemens per centimeter or less and with a clarity so that the sources can be seen clearly.

(6) A physical barrier, such as a railing or cover, must be used around or over irradiator pools during normal operation to prevent personnel from accidentally falling into the pool. The barrier may be removed during maintenance, inspection, and service operations.

(7) If long-handled tools or poles are used in irradiator pools, the radiation dose rate on the handling areas of the tools may not exceed two-hundredths millisievert (two millirems) per hour.

#### NEW SECTION

**WAC 246-236-035 Source rack protection.** If the product to be irradiated moves on a product conveyor system, the source rack and the mechanism that moves the rack must be protected by a barrier or guides to prevent products and product carriers from hitting or touching the rack or mechanism.

#### NEW SECTION

**WAC 246-236-037 Power failures.** (1) If electrical power at a panoramic or beam-type irradiator is lost for longer than ten seconds, the sources must automatically return to the shielded position.

(2) The lock on the door of the radiation room of a panoramic or beam-type irradiator may not be deactivated by a power failure.

(3) During a power failure, the area of any irradiator where sources are located may be entered only when using an operable and calibrated radiation survey meter.

#### NEW SECTION

**WAC 246-236-039 Design requirements.** Irradiators whose construction begins after July 1, 1993, must meet the design requirements of this section.

(1) Shielding. For panoramic or beam-type irradiators, the licensee shall design shielding walls to meet generally accepted building code requirements for reinforced concrete and design the walls, wall penetrations, and entranceways to meet the radiation shielding requirements of WAC 246-236-025. If the irradiator will use more than two hundred petabecquerels (five million curies) of activity, the licensee shall evaluate the effects of heating of the shielding walls by the irradiator sources.

(2) Foundations. For panoramic or beam-type irradiators, the licensee shall design the foundation, with consideration given to soil characteristics, to ensure it is adequate to support the weight of the facility shield walls.

(3) Pool integrity. For pool irradiators, the licensee shall design the pool to assure that it is leak resistant, that it is strong enough to bear the weight of the pool water and shipping casks, that a dropped cask would not fall on sealed sources, that all outlets or pipes meet the requirements of WAC 246-236-033(2), and that metal components are metallurgically compatible with other components in the pool.

(4) Water handling system. For pool irradiators, the licensee shall verify that the design of the water purification system is adequate to meet the requirements of WAC 246-236-033(5). The system must be designed so that water leaking from the system does not drain to unrestricted areas without being monitored.

(5) Radiation monitors. For all irradiators, the licensee shall evaluate the location and sensitivity of the monitor to detect sources carried by the product conveyor system as

required under WAC 246-236-029(1). The licensee shall verify that the product conveyor is designed to stop before a source on the product conveyor would cause a radiation overexposure to any person. For pool irradiators, if the licensee uses radiation monitors to detect contamination under WAC 246-236-059(2), the licensee shall verify that the design of radiation monitoring systems to detect pool contamination includes sensitive detectors located close to where contamination is likely to concentrate.

(6) Source rack. For pool irradiators, the licensee shall verify that there are no crevices on the source or between the source and source holder that would promote corrosion on a critical area of the source. For panoramic or beam-type irradiators, the licensee shall determine that source rack drops due to loss of power will not damage the source rack, and that source rack drops due to failure of cables (or alternate means of support) will not cause loss of integrity of sealed sources. For panoramic or beam-type irradiators, the licensee shall review the design of the mechanism that moves the sources to assure that the likelihood of a stuck source is low and that, if the rack sticks, a means exists to free it with minimal risk to personnel.

(7) Access control. For panoramic or beam-type irradiators, the licensee shall verify from the design and logic diagram that the access control system will meet the requirements of WAC 246-236-023.

(8) Fire protection. For panoramic or beam-type irradiators, the licensee shall verify that the number, location, and spacing of the smoke and heat detectors are appropriate to detect fires and that the detectors are protected from mechanical and radiation damage. The licensee shall verify that the design of the fire extinguishing system provides the necessary discharge patterns, densities, and flow characteristics for complete coverage of the radiation room and that the system is protected from mechanical and radiation damage.

(9) Source return. For panoramic or beam-type irradiators, the licensee shall verify that the source rack will automatically return to the fully shielded position if off-site power is lost for more than ten seconds.

(10) Seismic. For panoramic or beam-type irradiators to be built in seismic areas, the licensee shall design the reinforced concrete radiation shields to retain their integrity in the event of an earthquake by designing to the seismic requirements of an appropriate source such as American Concrete Institute Standard ACI 318-89, "Building Code Requirements for Reinforced Concrete," chapter 21, "Special Provisions for Seismic Design," or local building codes, if current.

(11) Wiring. For panoramic or beam-type irradiators, the licensee shall verify that electrical wiring and electrical equipment in the radiation room are selected to minimize failures due to prolonged exposure to radiation.

#### NEW SECTION

**WAC 246-236-041 Construction monitoring and acceptance testing.** The requirements of this section must be met for irradiators whose construction begins after July 1, 1993. The requirements must be met prior to loading sources.

(1) Shielding. For panoramic or beam-type irradiators, the licensee shall monitor the construction of the shielding to verify that its construction meets design specifications and generally accepted building code requirements for reinforced concrete.

(2) Foundations. For panoramic or beam-type irradiators, the licensee shall monitor the construction of the foundations to verify that their construction meets design specifications.

(3) Pool integrity. For pool irradiators, the licensee shall verify that the pool meets design specifications and shall test the integrity of the pool. The licensee shall verify that outlets and pipes meet the requirements of WAC 246-236-033(2).

(4) Water handling system. For pool irradiators, the licensee shall verify that the water purification system, the conductivity meter, and the water level indicators operate properly.

(5) Radiation monitors. For all irradiators, the licensee shall verify the proper operation of the monitor to detect sources carried on the product conveyor system and the related alarms and interlocks required under WAC 246-236-029(1). For pool irradiators, the licensee shall verify the proper operation of the radiation monitors and the related alarm if used to meet the requirements under WAC 246-236-059(2). For underwater irradiators, the licensee shall verify the proper operation of the over-the-pool monitor, alarms, and interlocks required under WAC 246-236-029(2).

(6) Source rack. For panoramic or beam-type irradiators, the licensee shall test the movement of the source racks for proper operation prior to source loading; testing must include source rack lowering due to simulated loss of power. For all irradiators with product conveyor systems, the licensee shall observe and test the operation of the conveyor system to assure that the requirements of WAC 246-236-035 are met for protection of the source rack and the mechanism that moves the rack; testing must include tests of any limit switches and interlocks used to protect the source rack and mechanism that moves the rack from moving product carriers.

(7) Access control. For panoramic or beam-type irradiators, the licensee shall test the completed access control system to assure that it functions as designed and that all alarms, controls, and interlocks work properly.

(8) Fire protection. For panoramic or beam-type irradiators, the licensee shall test the ability of the heat and smoke detectors to detect a fire, to activate alarms, and to cause the source rack to automatically become fully shielded. The licensee shall test the operability of the fire extinguishing system.

(9) Source return. For panoramic or beam-type irradiators, the licensee shall demonstrate that the source racks can be returned to their fully shielded positions without off-site power.

(10) Computer systems. For panoramic or beam-type irradiators that use a computer system to control the access control system, the licensee shall verify that the access control system will operate properly if off-site power is lost and shall verify that the computer has security features that prevent an irradiator operator from commanding the computer to

override the access control system when it is required to be operable.

(11) Wiring. For panoramic or beam-type irradiators, the licensee shall verify that the electrical wiring and electrical equipment that were installed meet the design specifications.

## OPERATION OF IRRADIATORS

### NEW SECTION

**WAC 246-236-051 Training.** (1) Before an individual is permitted to operate an irradiator without a supervisor present, the individual must be instructed in:

(a) The fundamentals of radiation protection applied to irradiators (including the differences between external radiation and radioactive contamination, units of radiation dose, department radiation dose limits under this chapter and chapter 246-221 WAC, why large radiation doses must be avoided, how shielding and access controls prevent large doses, how an irradiator is designed to prevent contamination, the proper use of survey meters and personnel dosimeters, other radiation safety features of an irradiator, and the basic function of the irradiator);

(b) The requirements of this chapter and chapter 246-222 WAC that are relevant to the irradiator;

(c) The operation of the irradiator;

(d) Those operating and emergency procedures listed in WAC 246-236-053 that the individual is responsible for performing; and

(e) Case histories of accidents or problems involving irradiators.

(2) Before an individual is permitted to operate an irradiator without a supervisor present, the individual shall pass a written test on the instruction received consisting primarily of questions based on the licensee's operating and emergency procedures that the individual is responsible for performing and other operations necessary to safely operate the irradiator without supervision.

(3) Before an individual is permitted to operate an irradiator without a supervisor present, the individual must have received on-the-job training or simulator training in the use of the irradiator as described in the license application. The individual shall also demonstrate the ability to perform those portions of the operating and emergency procedures that he or she is to perform.

(4) The licensee shall conduct safety reviews for irradiator operators at least annually. The licensee shall give each operator a brief written test on the information. Each safety review must include, to the extent appropriate, all of the following:

(a) Changes in operating and emergency procedures since the last review, if any;

(b) Changes in rules and license conditions since the last review, if any;

(c) Reports on recent accidents, mistakes, or problems that have occurred at irradiators, if any;

(d) Relevant results of inspections of operator safety performance;

(e) Relevant results of the facility's inspection and maintenance checks; and

(f) A drill to practice an emergency or abnormal event procedure.

(5) The licensee shall evaluate the safety performance of each irradiator operator at least annually to ensure that rules, license conditions, and operating and emergency procedures are followed. The licensee shall discuss the results of the evaluation with the operator and shall instruct the operator on how to correct any mistakes or deficiencies observed.

(6) Individuals who will be permitted unescorted access to the radiation room of the irradiator or the area around the pool of an underwater irradiator, but who have not received the training required for operators and the radiation safety officer, shall be instructed and tested in any precautions they should take to avoid radiation exposure, any procedures or parts of procedures listed in WAC 246-236-053 that they are expected to perform or comply with, and their proper response to alarms required in this chapter. Tests may be oral.

(7) Individuals who must be prepared to respond to alarms required under WAC 246-236-023 (2) and (9), 246-236-027(1), 246-236-029 (1) and (2), and 246-236-059(2) shall be trained and tested on how to respond. Each individual shall be retested at least once a year. Tests may be oral.

#### NEW SECTION

**WAC 246-236-053 Operating and emergency procedures.** (1) The licensee shall have and follow written operating procedures for:

(a) Operation of the irradiator, including entering and leaving the radiation room;

(b) Use of personnel dosimeters;

(c) Surveying the shielding of panoramic or beam-type irradiators;

(d) Monitoring pool water for contamination while the water is in the pool and before release of pool water to unrestricted areas;

(e) Leak testing of sources;

(f) Inspection and maintenance checks required under WAC 246-236-061;

(g) Loading, unloading, and repositioning sources, if the operations will be performed by the licensee; and

(h) Inspection of movable shielding required under WAC 246-236-023(8), if applicable.

(2) The licensee shall have and follow emergency or abnormal event procedures, appropriate for the irradiator type, for:

(a) Sources stuck in the unshielded position;

(b) Personnel overexposures;

(c) A radiation alarm from the product exit portal monitor or pool monitor;

(d) Detection of leaking sources, pool contamination, or alarm caused by contamination of pool water;

(e) A low or high water level indicator, an abnormal water loss, or leakage from the source storage pool;

(f) A prolonged loss of electrical power;

(g) A fire alarm or explosion in the radiation room;

(h) An alarm indicating unauthorized entry into the radiation room, area around pool, or another alarmed area;

(i) Natural phenomena, including an earthquake, a tornado, flooding, or other phenomena as appropriate for the geographical location of the facility; and

(j) The jamming of automatic conveyor systems.

(3) The licensee may revise operating and emergency procedures without approval of the department only if all of the following conditions are met:

(a) The revisions do not reduce the safety of the facility;

(b) The revisions are consistent with the outline or summary of procedures submitted with the license application;

(c) The revisions have been reviewed and approved by the radiation safety officer; and

(d) The users or operators are instructed and tested on the revised procedures before they are put into use.

#### NEW SECTION

**WAC 246-236-055 Personnel monitoring.** (1) Irradiator operators shall wear a personnel dosimeter that is processed and evaluated by an accredited national voluntary laboratory accreditation program processor while operating a panoramic or beam-type irradiator or while in the area around the pool of an underwater irradiator. The personnel dosimeter processor must be accredited for high energy photons in the normal and accident dose ranges per WAC 246-221-090(3). Each personnel dosimeter must be assigned to and worn by only one individual. Film badges must be processed at least monthly, and other personnel dosimeters must be processed at least quarterly.

(2) Other individuals who enter the radiation room of a panoramic or beam-type irradiator shall wear a dosimeter, which may be a pocket dosimeter. For groups of visitors, only two people who enter the radiation room are required to wear dosimeters. If pocket dosimeters are used to meet the requirements of this subsection, a check of their response to radiation must be done at least annually. Acceptable dosimeters must read within plus or minus thirty percent of the true radiation dose.

#### NEW SECTION

**WAC 246-236-057 Radiation surveys.** (1) A radiation survey of the area outside the shielding of the radiation room of a panoramic or beam-type irradiator must be conducted with the sources in the exposed position before the facility starts to operate. A radiation survey of the area above the pool of pool irradiators must be conducted after the sources are loaded but before the facility starts to operate. Additional radiation surveys of the shielding must be performed at intervals not to exceed three years and before resuming operation after addition of new sources or any modification to the radiation room shielding or structure that might increase dose rates.

(2) If the radiation levels specified in WAC 246-236-025 are exceeded, the facility must be modified to comply with the requirements of WAC 246-236-025.

(3) Portable radiation survey meters must be calibrated at least annually to an accuracy of plus or minus twenty percent for the gamma energy of the sources in use. The calibration must be done at two points on each scale or, for digital instruments, at one point per decade over the range that will be

used. Portable radiation survey meters must be of a type that does not saturate and read zero at high radiation dose rates.

(4) Water from the irradiator pool, other potentially contaminated liquids, and sediments from pool vacuuming must be monitored for radioactive contamination before release to unrestricted areas. Radioactive concentrations must not exceed those specified in WAC 246-221-290 Table III "Releases to Sewers," or column 2 of Table II "Effluent Concentration" in water.

(5) Before releasing resins for unrestricted use, they must be monitored before release in an area with a background level less than one-half microsievert (five-hundredths millirem) per hour. The resins may be released only if the survey does not detect radiation levels above background radiation levels. The survey meter used must be capable of detecting radiation levels of one-half microsievert (five-hundredths millirem) per hour.

#### NEW SECTION

##### **WAC 246-236-059 Detection of leaking sources.**

(1) Each dry-source-storage sealed source must be tested for leakage at intervals not to exceed six months using a leak test kit or method approved by the NRC or an agreement state. In the absence of a certificate from a transferor that a test has been made within the six months before the transfer, the sealed source may not be used until tested. The test must be capable of detecting the presence of two hundred becquerels (five-thousandths microcurie) of radioactive material and must be performed by a person approved by the NRC or an agreement state to perform the test.

(2) For pool irradiators, sources may not be put into the pool unless the licensee tests the sources for leaks or has a certificate from a transferor that leak test has been done within the six months before the transfer. Water from the pool must be checked for contamination each day the irradiator operates. The check may be done either by using a radiation monitor on a pool water circulating system or by analysis of a sample of pool water. If a check for contamination is done by analysis of a sample of pool water, the results of the analysis must be available within twenty-four hours. If the licensee uses a radiation monitor on a pool water circulating system, the detection of above normal radiation levels must activate an alarm. The alarm set-point must be set as low as practical, but high enough to avoid false alarms. The licensee may reset the alarm set-point to a higher level if necessary to operate the pool water purification system to clean up contamination in the pool if specifically provided for in written emergency procedures.

(3) If a leaking source is detected, the licensee shall arrange to remove the leaking source from service and have it decontaminated, repaired, or disposed of by an NRC or an agreement state licensee that is authorized to perform these functions. The licensee shall promptly check its personnel, equipment, facilities, and irradiated product for radioactive contamination. No product may be shipped until the product has been checked and found free of contamination. If a product has been shipped that may have been inadvertently contaminated, the licensee shall arrange to locate and survey that product for contamination. If any personnel are found to be

contaminated, decontamination must be performed promptly. If contaminated equipment, facilities, or products are found, the licensee shall arrange to have them decontaminated or disposed of by an NRC or an agreement state licensee that is authorized to perform these functions. If a pool is contaminated, the licensee shall arrange to clean the pool until the contamination levels do not exceed the appropriate concentration in WAC 246-221-290 in column 2 of Table II "Effluent Concentration." The licensee shall comply with the reporting requirements of WAC 246-221-250, 246-221-260, and 246-221-265.

#### NEW SECTION

##### **WAC 246-236-061 Inspection and maintenance.**

(1) The licensee shall perform inspection and maintenance checks that include, as a minimum, each of the following at the frequency specified in the license or license application:

- (a) Operability of each aspect of the access control system required under WAC 246-236-023;
- (b) Functioning of the source position indicator required under WAC 246-236-031(2);
- (c) Operability of the radiation monitor for radioactive contamination in pool water required under WAC 246-236-059(2) using a radiation check source, if applicable;
- (d) Operability of the over-pool radiation monitor at underwater irradiators as required under WAC 246-236-029(2);
- (e) Operability of the product exit monitor required under WAC 246-236-029(1);
- (f) Operability of the emergency source return control required under WAC 246-236-031(3);
- (g) Leak-tightness of systems through which pool water circulates (visual inspection);
- (h) Operability of the heat and smoke detectors and extinguisher system required under WAC 246-236-027 (but without turning extinguishers on);
- (i) Operability of the means of pool water replenishment required under WAC 246-236-033(3);
- (j) Operability of the indicators of high and low pool water levels required under WAC 246-236-033(4);
- (k) Operability of the intrusion alarm required under WAC 246-236-023(9), if applicable;
- (l) Functioning and wear of the system, mechanisms, and cables used to raise and lower sources;
- (m) Condition of the barrier to prevent products from hitting the sources or source mechanism as required under WAC 246-236-035;
- (n) Amount of water added to the pool to determine if the pool is leaking;
- (o) Electrical wiring on required safety systems for radiation damage;
- (p) Pool water conductivity measurements and analysis as required under WAC 246-236-063(2).

(2) Malfunctions and defects found during inspection and maintenance checks must be repaired without undue delay.

NEW SECTION

**WAC 246-236-063 Pool water purity.** (1) The pool water purification system must be run sufficiently to maintain the conductivity of the pool water below twenty microsiemens per centimeter under normal circumstances. If pool water conductivity rises above twenty microsiemens per centimeter, the licensee shall take prompt actions to lower the pool water conductivity and shall take corrective actions to prevent future recurrences.

(2) The licensee shall measure the pool water conductivity frequently enough, but no less than weekly, to assure that the conductivity remains below twenty microsiemens per centimeter. Conductivity meters must be calibrated at least annually.

NEW SECTION

**WAC 246-236-065 Attendance during operation.** (1) Both an irradiator operator and at least one other individual, who is trained on how to respond and prepared to promptly render or summon assistance if the access control alarm sounds, shall be present on-site whenever:

(a) The irradiator is operated using an automatic product conveyor system; and

(b) The product is moved into or out of the radiation room when the irradiator is operated in a batch mode.

(2) At a panoramic or beam-type irradiator at which static irradiations (no movement of the product) are occurring, a person who has received the training on how to respond to alarms described in WAC 246-236-051(7) must be on-site.

(3) At an underwater irradiator, an irradiator operator must be present at the facility whenever the product is moved into or out of the pool. Individuals who move the product into or out of the pool of an underwater irradiator need not be qualified as irradiator operators; however, they must have received the training described in WAC 246-236-051 (6) and (7). Static irradiations may be performed without a person present at the facility.

NEW SECTION

**WAC 246-236-067 Entering and leaving the radiation room.** (1) Upon first entering the radiation room of a panoramic or beam-type irradiator after an irradiation, the irradiator operator shall use a survey meter to determine that the source has returned to its fully shielded position. The operator shall check the functioning of the survey meter with a radiation check source prior to entry.

(2) Before exiting from and locking the door to the radiation room of a panoramic or beam-type irradiator prior to a planned irradiation, the irradiator operator shall:

(a) Visually inspect the entire radiation room to verify that no one else is in it; and

(b) Activate a control in the radiation room that permits the sources to be moved from the shielded position only if the door to the radiation room is locked within a preset time after setting the control.

(3) During a power failure, the area around the pool of an underwater irradiator may not be entered without using an

operable and calibrated radiation survey meter unless the over-the-pool monitor required under WAC 246-236-029(2) is operating with backup power.

NEW SECTION

**WAC 246-236-069 Irradiation of explosive or flammable materials.** (1) Irradiation of explosive material is prohibited unless the licensee has received prior written authorization from the department. Authorization will not be granted unless the licensee can demonstrate that detonation of the explosive would not rupture the sealed sources, injure personnel, damage safety systems, or cause radiation overexposures of personnel.

(2) Irradiation of more than small quantities of flammable material (flash point below sixty degrees Celsius) is prohibited in panoramic or beam-type irradiators unless the licensee has received prior written authorization from the department. Authorization will not be granted unless the licensee can demonstrate that a fire in the radiation room could be controlled without damage to sealed sources or safety systems and without radiation overexposures of personnel.

**RECORDS**NEW SECTION

**WAC 246-236-081 Records and retention periods.** The licensee shall maintain the following records at the irradiator for the periods specified:

(1) A copy of the license, license conditions, documents incorporated into a license by reference, and amendments thereto until superseded by new documents or until the department terminates the license for documents not superseded.

(2) Records of each individual's training, tests, and safety reviews provided to meet the requirements of WAC 246-236-051 (1) through (4), (6), and (7) until three years after the individual terminates work.

(3) Records of the annual evaluations of the safety performance of irradiator operators as required under WAC 246-236-051(5) for three years after the evaluation.

(4) A copy of the current operating and emergency procedures required under WAC 246-236-053 until superseded or the department terminates the license. Records of the radiation safety officer's review and approval of changes in procedures as required under WAC 246-236-053 (3)(c) retained for three years from the date of the change.

(5) Evaluations of personnel dosimeters as required under WAC 246-236-055 until the department terminates the license.

(6) Records of radiation surveys as required under WAC 246-236-057 for three years from the date of the survey.

(7) Records of radiation survey meter calibrations as required under WAC 246-236-057 and pool water conductivity meter calibrations required under WAC 246-236-063(2) until three years from the date of calibration.

(8) Records of the results of leak tests as required under WAC 246-236-059(1) and the results of contamination

checks as required under WAC 246-236-059(2) for three years from the date of each test.

(9) Records of inspection and maintenance checks as required under WAC 246-236-061 for three years.

(10) Records of major malfunctions, significant defects, operating difficulties or irregularities, and major operating problems that involve required radiation safety equipment for three years after repairs are completed.

(11) Records of the receipt, transfer and disposal, of all licensed sealed sources as required under WAC 246-220-020, 246-221-230, and 246-232-080.

(12) Records on the design checks as required under WAC 246-236-039 and the construction control checks as required under WAC 246-236-041 until the license is terminated. The records must be signed and dated. The title or qualification of the person signing must be included.

(13) Records related to decommissioning of the irradiator as required under WAC 246-235-075(6).

## NEW SECTION

**WAC 246-236-083 Reports.** (1) In addition to the reporting requirements in chapters 246-220 through 246-254 WAC, the licensee shall report the following events if not reported under chapters 246-220 through 246-254 WAC:

- (a) Source stuck in an unshielded position.
- (b) Any fire or explosion in a radiation room.

- (c) Damage to the source racks.

- (d) Failure of the cable or drive mechanism used to move the source racks.

- (e) Inoperability of the access control system.

- (f) Detection of radiation source by the product exit monitor.

- (g) Detection of radioactive contamination attributable to licensed radioactive material.

- (h) Structural damage to the pool liner or walls.

- (i) Abnormal water loss or leakage from the source storage pool.

- (j) Pool water conductivity exceeding one hundred microsiemens per centimeter.

(2) The report must include a telephone report within twenty-four hours as described in WAC 246-221-250, and a written report within thirty days as described in WAC 246-221-250.

## WSR 18-15-026 PERMANENT RULES BENTON CLEAN AIR AGENCY

[Filed July 10, 2018, 3:36 p.m., effective August 10, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The changes to Article 3 are to address concerns regarding odors from marijuana processors and producers commercially licensed through the Washington state liquor and cannabis board. The changes to Articles 8 and 10 are administrative and are proposed to make Regulation 1 more consistent.

Citation of Rules Affected by this Order: Benton Clean Air Agency Regulation 1.

Statutory Authority for Adoption: RCW 70.94.141, 70.94.380(2).

Adopted under notice filed as WSR 18-10-070 on April 12, 2018.

Changes Other than Editing from Proposed to Adopted Version: None other than to include the effective date of August 17, 2018.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: June 28, 2018.

Robin Priddy  
Director

## NEW SECTION

### Section 3.04 Standards for Marijuana Production and Marijuana Processing

#### A. Purpose.

The production and processing of marijuana emits air contaminants. Section 3.04 establishes standards to minimize air contaminants from stationary sources that produce or process marijuana.

#### B. Applicability.

This section applies to all persons or entities having an active Washington State Liquor and Cannabis Board (LCB) license for marijuana production operations and marijuana processing operations in Benton County.

#### C. Definitions.

Unless a different meaning is clearly required by context, words and phrases used in this section will have the following meaning:

1. "Control of environmental conditions" means modifying surroundings to facilitate plant growth, may include, but is not limited to; lighting, temperature, relative humidity, and carbon dioxide levels. For implementation of Section 3.04, watering plants and short term covering of plants for a portion of each day as needed for frost protection are not considered control of environmental conditions.

2. "Housing unit" means a house, an apartment, a mobile home, a group of rooms, or a single room that is occupied as separate living quarters, in which the occupants live and eat separately from any other persons in the building, and which have direct access from the outside of the building or through a common hall.

3. "Indoor marijuana production and indoor marijuana processing" means production or processing occurring in a fully enclosed building that is permanently affixed to the ground, has permanent rigid walls, a roof that is permanent and non-retractable, and doors. The building is equipped to maintain control of environmental conditions. Hoop houses, temporary structures, or other similar structures are not considered indoor.

4. "Marijuana" means all parts of the cannabis plant, as defined in Chapter 69.50 RCW as it now exists or as amended.

5. "Processor (process, processing)" means LCB licensed operations that dry, cure, extract, compound, convert, package, and label usable marijuana, marijuana concentrates, and marijuana-infused products.

6. "Producer (production, producing)" means LCB licensed operations that propagate, grow, harvest, and trim marijuana to be processed.

7. "Public Place" - means that portion of any building used by and open to the public. A public place does not include a private residence. A public place also includes a lot, parcel, or plot of land that includes a building or structure thereon that is used by and open to the public.

8. "Responsible person" means any person who owns or controls property on which Section 3.04 is applicable.

#### D. Marijuana Odor.

With respect to odor, it shall be unlawful for any production or processing facility of marijuana to cause an odor that can be detected beyond the facilities property line. The agency may take enforcement action pursuant to chapter 70.94 RCW, under this section if the Control Officer or a duly authorized representative has documented the following:

1. The odor or can be readily smelled from a public place or the private property of another housing unit;

2. An affidavit from a person making a complaint that demonstrates that they have experienced the odor of marijuana so as to unreasonably interfere with their life and property. (The affidavit should describe or identify, to the extent possible, the location, duration, and offensiveness of the odor experienced by the complainant);

#### 3. The source of the odor.

E. With respect to odor, the agency will determine whether or not a violation of Section 3.04D has occurred based on its review of the information obtained during the investigation.

F. When determining whether to take formal enforcement action authorized in Section 3.04D, the agency may consider written evidence provided by the person causing the odors which demonstrates to the satisfaction of the agency that all controls and operating practices to prevent or minimize odors to the greatest degree practicable are being employed. If the agency determines that all such efforts are being employed by the person causing the odors and that no additional control measures or alternate operating practices are appropriate, the agency may decline to pursue formal enforcement action.

G. Nothing in this section shall be construed to impair any cause of action or legal remedy of any person, or the public for injury or damages arising from the emission of any air

contaminant in such place, manner or concentration as to constitute air pollution or a common law nuisance.

#### H. Requirements.

All persons or entities subject to the requirements of Section 3.04 must comply with the following:

1. Production and processing must occur indoors, as defined in 3.04(C), unless the operation is exempt under Section 3.04(M);

#### 2. Indoor production and processing requirements:

##### a. Control equipment and facility design:

- i. Operations must be equipped with air pollution control equipment that is properly sized for the air flow to be controlled. Air pollution control equipment may include, but is not limited to, carbon adsorption within the facility, carbon filtration on facility exhaust points, vertical exhaust stacks. Air pollution control equipment is not required for windows, doors, or other openings, provided these openings are kept closed except as needed for active ingress or egress; or

- ii. Operations must be designed to prevent exhaust from production and processing operations directly to the outside; or

##### iii. Both.

- b. Operations must meet the requirements of Section 3.04(D).

3. Operation and maintenance plan. Air pollution control equipment must be operated and maintained in accordance with the manufacturers recommendations. An operation and maintenance plan for the air pollution control equipment must be available on site. The plan must include written operation instructions and maintenance schedules. Record shall be kept of the dates and description of all maintenance and repair performed on the air pollution control equipment. Record must be kept on site for the previous 24 months and be provided to the agency upon request.

- I. Compliance with Other Laws and Regulations. Compliance with Regulation I, Article 3, Section 3.04, does not constitute an exemption from compliance with other Sections of Regulation I, or other laws or regulations.

- J. Producers, Processors and Responsible Persons. If there is a violation of Regulation I, Article 3, Section 3.04D, a Notice of Violation may be issued to all producers and processors on the parcel, and all responsible persons.

- K. Compliance Schedule. All persons or entities subject to the requirements of Article 3, Section 3.04 must be in compliance with Section 3.04 requirements as follows:

1. New producers and processors or expansion at existing producers and processors, that begin or expand operations after August 17, 2018, must be in full compliance with Section 3.04 requirements before production and/or processing begins.

- L. Any new marijuana production or processing facility must notify the agency by completing the proof of notification form found on [bentoncleanair.org](http://bentoncleanair.org).

#### M. Exemptions.

1. Existing marijuana producers and processors, in-operation prior to the Section 3.04 effective date (xx/xx/xxx) are exempt from of Section 3.04H. This exemption does not exclude them from the requirements of Section 3.04D.

2. Any existing marijuana producer or processor, in-operation prior to the section 3.04 effective date August 17,

2018 found to be in violation of Section 3.04D, may be required to comply with Section 3.04H within 180 days of receipt of the penalty from said violation or as defined by a compliance schedule agreed upon with the Benton Clean Air Agency.

**Reviser's note:** The typographical errors in the above material occurred in the copy filed by the Benton Clean Air Agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

## AMENDATORY SECTION

### **SECTION 8.01 Definitions**

A. "AHERA Building Inspector" means a person who has successfully completed the training requirements for a building inspector established by United States Environmental Protection Agency (EPA) Asbestos Model Accreditation Plan: Interim Final Rule (40 CFR Part 763, Appendix C to Subpart E) and whose certification is current.

B. "AHERA Project Designer" means a person who has successfully completed the training requirements for an abatement project designer established by EPA Asbestos Model Accreditation Plan: Interim Final Rule (40 CFR Part 763, Appendix C to Subpart E) and whose certification is current.

C. "Asbestos" means the asbestosiform varieties of actinolite, amosite (cummingtonite-grunerite), tremolite, chrysotile (serpentinite), crocidolite (riebeckite), or anthophyllite.

D. "Asbestos-Containing Material" means any material containing more than one percent (1%) asbestos as determined using the method specified in the EPA publication, Method for the Determination of Asbestos in Building Materials, EPA/600/R-93/116, July 1993 or a more effective method as approved by EPA.

E. "Asbestos-Containing Waste Material" means any waste that contains or is contaminated with asbestos-containing material. Asbestos-containing waste material includes asbestos-containing material that has been removed from a structure, disturbed, or deteriorated in a way that it is no longer an integral part of the structure or component, asbestos waste from control equipment, materials used to enclose the work area during an asbestos project, asbestos-containing material collected for disposal, asbestos-contaminated waste, debris, containers, bags, protective clothing, or high efficiency particulate air (HEPA) filters. Asbestos-containing waste material does not include samples of asbestos-containing material taken for testing or enforcement purposes.

F. "Asbestos Project" means any activity involving the abatement, renovation, demolition, removal, salvage, cleanup or disposal of asbestos-containing material, or any other action or inaction that disturbs or is likely to disturb any asbestos-containing material. It includes the removal and disposal of asbestos-containing material or asbestos-containing waste material. It does not include the application of duct tape, rewettable glass cloth, canvas, cement, paint, or other non-asbestos materials to seal or fill exposed areas where asbestos fibers may be released.

G. "Asbestos Survey" means a written report resulting from a thorough inspection performed pursuant to Section 8.02 of this Regulation.

H. "Asphalt Shingles" means asphalt roofing in shingle form, composed of glass felt or felts impregnated and coated on both sides with asphalt, and surfaced on the weather side with mineral granules. Some asphalt shingle styles are commonly referred to as three-tab shingles.

I. "Competent Person" means a person who is capable of identifying asbestos hazards and selecting the appropriate asbestos control strategy, has the authority to take prompt corrective measures to eliminate the hazards, and has been trained and is currently certified in accordance with the standards established by the Washington State Department of Labor and Industries, the federal Occupational Safety & Health Administration, or the United States Environmental Protection Agency (whichever agency has jurisdiction).

J. "Component" means any equipment, pipe, structural member, or other item or material.

K. "Contiguous" means touching or adjoining.

L. "Controlled Area" means an area to which only certified asbestos workers, representatives of the Agency, or other persons authorized by the Washington Industrial Safety and Health Act (WISHA), have access.

M. "Demolition" means wrecking, razing, leveling, dismantling, or intentional burning of a structure, making the structure permanently uninhabitable or unusable in part or whole. It includes any related handling operations. It also includes moving a structure (except a mobile home which remains intact) and wrecking or taking out of any load-supporting structural member.

N. "Disposal Container" means a carton, bag, drum, box, or crate designed for the purpose of safely transporting and disposing of asbestos-containing waste material.

O. "Facility" means any institutional, commercial, public, industrial, or residential structure, installation, or building (including any structure, installation, or building containing condominiums or individual dwelling units operated as a residential cooperative, but excluding residential buildings having four or fewer dwelling units); any ship; and any active or inactive waste disposal site. For purposes of this definition, any building, structure, or installation that contains a loft used as a dwelling is not considered a residential structure, installation, or building. Any structure, installation or building that was previously subject to this subpart is not excluded, regardless of its current use or function.

P. "Homogenous Area" means an area of surfacing material, thermal system insulation material, or a miscellaneous material that is uniform in color or texture. Unless approved otherwise by the Agency, rubble piles, debris piles, ash, soil, and similar materials are not homogeneous areas.

Q. "Friable Asbestos-Containing Material" means asbestos-containing material that, when dry, can be crumbled, pulverized, or reduced to powder by hand pressure or by the forces expected to act upon the material in the course of demolition, renovation, or disposal. Each of these descriptions is separate and distinct, meaning the term includes asbestos-containing material that, when dry, can be:

1. Crumbled by hand pressure or by the forces expected to act upon the material in the course of renovation, demolition, or disposal;

2. Pulverized by hand pressure or by the forces expected to act upon the material in the course of renovation, demolition, or disposal; or

3. Reduced to powder by hand pressure or by the forces expected to act upon the material in the course of renovation, demolition, or disposal.

**4. If the asbestos content is less than 10 percent as determined by a method other than point counting by polarized light microscopy (PLM), verify the asbestos content by point counting using PLM.**

R. "Leak-Tight Container" means a dust-tight and liquid tight disposal container, at least 6-mil thick, that encloses asbestos-containing waste material and prevents solids or liquids from escaping or spilling out. Such containers may include sealed plastic bags, metal or fiber drums, and sealed polyethylene plastic.

S. "Nonfriable Asbestos-Containing Material" means asbestos-containing material that is not friable (e.g., when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure or by the forces expected to act on the material in the course of demolition, renovation, or disposal).

T. "Owner-Occupied, Single-Family Residence" means any non-multiple residential unit that is used by one family who owns the property as their domicile (permanent and primary residence) both prior to and after renovation or demolition, and can demonstrate such to the Agency upon request (e.g. utility bills). This term does not include rental properties, multiple unit buildings (e.g. duplexes and condominiums with two or more units) or multiple-family units, nor does this term include any mixed-use building (e.g. a business being operated out of a residence), structure, or installation that contains a residential unit.

U. "Owner's Agent" means any person who leases, operates, controls, or is responsible for an asbestos project, renovation, demolition, or property subject to Article 8 of this Regulation. It also includes the person(s) submitting a notification pursuant to Section 8.03 of this Regulation and/or performing the asbestos survey.

V. "Person" means any individual, firm, public or private corporation, association, partnership, political subdivision, municipality, or government agency.

W. "Renovation" means altering a structure or component in any way, other than demolition, that disturbs materials totaling greater than or equal to 10 linear feet, or greater than or equal to 48 square feet, that ((a material that)) was considered a suspect asbestos containing material prior to performing an asbestos survey.

X. "Residential Unit" means any building with four or fewer dwelling units each containing space for uses such as living, sleeping, preparation of food, and eating that is used, occupied, or intended or designed to be occupied by one family as their domicile. This term includes houses, mobile homes, trailers, houseboats, and houses with a "mother-in-law apartment" or "guest room". This term does not include any facility that contains a residential unit.

Y. "Structure" means something built or constructed, in part or in whole. Examples include, but are not limited to, the following in part or in whole: houses, garages, commercial buildings, mobile homes, bridges, "smoke" stacks, pole-buildings, canopies, lean-tos, and foundations. This term

does not include normally mobile equipment (e.g., cars, recreational vehicles, boats, etc.).

Z. "Surfacing Material" means material that is sprayed-on, troweled-on, or otherwise applied to surfaces including, but not limited to, acoustical plaster on ceilings, paints, fire-proofing material on structural members, or other material on surfaces for decorative purposes.

AA. "Suspect Asbestos-Containing Material" means material that has historically contained asbestos including, but not limited to, surfacing material, thermal system insulation, roofing material, fire barriers, gaskets, flooring material, and cement siding. Suspect asbestos-containing material must be presumed to be asbestos-containing material unless demonstrated otherwise (e.g. as determined using the method specified in the EPA publication, *Method for the Determination of Asbestos in Building Materials*, EPA/600/R-93/116, July 1993).

AB. "Thermal System Insulation" means material applied to pipes, fittings, boilers, tanks, ducts, or other structural components to prevent heat loss or gain.

AC. "Visible Emissions" means any emissions that are visually detectable without the aid of instruments. The term does not include condensed uncombined water vapor.

AD. "Wallboard System" means joint compound and tape specifically applied to cover nail holes, joints and wall corners. It does not mean "add on materials" such as sprayed on materials, paints, textured ceilings or wall coverings. A wallboard system where joint compound and tape have become an integral system (40 CFR Part 61 FRL4821-7) may be analyzed as a composite sample for determining if it is an asbestos-containing material.

AE. "Waste Generator" means any owner or owner's agent that generates, produces, or is in part or whole, responsible for an activity that results in asbestos-containing waste material.

AF. "Workday" means Monday through Friday 8:00 a.m. to 5:00 p.m. excluding legal holidays observed by the Agency.

**Reviser's note:** The spelling error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

## AMENDATORY SECTION

### **SECTION 10.08 Asbestos Fees and Waiting Periods**

A. Any fee required under Table 10-1 for asbestos projects will be due and payable at the time of filing, unless otherwise specified to the applicant by the Agency.

B. Failure to pay all or part of the fee may result in the commencement of a formal enforcement action.

C. The waiting period begins at the time of filing.

**Table 10-1: Asbestos Fees**

<b>Demolition/Asbestos Projects at Residential Units</b>		
<b>Activity</b>	<b>Waiting Period</b>	<b>Fee</b>
Demolition	5 Days	\$50
Owner Occupied Single Family Residence Asbestos Project $\geq$ 10 linear. ft. or $\geq$ 48 sq. ft. of friable ACM performed by owner-occupant	Prior Notice	\$25
Asbestos Project Involving Only Non-Friable ACM $\geq$ 10 linear feet or $\geq$ 48 sq. ft That Will Remain Non-Friable	Prior Notice	\$25
All Other Residential Asbestos Projects $\geq$ 10 linear feet or $\geq$ 48 sq. ft	3 Days	\$50
Renovations $\geq$ 10 linear feet or $\geq$ 48 sq. ft with No ACM	Prior Notice	\$0
Demolition or Asbestos Project Amendment	Prior Notice	\$0
Emergency Notification Waiver	Prior Notice	Twice the Regular Fee
Asbestos Project Using Alternate Work Practices	10 Days	Twice the Regular Fee
<b>Demolition/Asbestos Projects at Facilities</b>		
<b>Activity</b>	<b>Waiting Period</b>	<b>Fee</b>
Demolition	10 Days	\$150
Asbestos Project Involving Only Non-Friable ACM $\geq$ 10 linear feet or $\geq$ 48 sq. ft That Will Remain Non-Friable	Prior Notice	\$25
Asbestos Project (amount of friable ACM):		
10 to 259 ln ft and/or 48 to 159 ft <sup>2</sup>	10 Days	\$325
260 to 999 ln ft and/or 160 to 4,999 ft <sup>2</sup>	10 Days	\$650
1,000 to 9,999 ln ft and/or 5,000 to 49,999 ft <sup>2</sup>	10 Days	\$1800
Over 10,000 ln ft and/or Over 50,000 ft <sup>2</sup>	10 Days	\$150
Renovation $\geq$ 10 linear feet or $\geq$ 48 sq. ft with No ACM	Prior Notice	\$0
Demolition or Asbestos Project Amendment	Prior Notice	\$0
Emergency Notification Waiver	Prior Notice	Twice the Regular Fee
Asbestos Project Using Alternate Work Practices	10 Days	Twice the Regular Fee
<b>Asbestos Containing Waste Material Temporary Storage Permit</b>		
ACWM Temporary Storage Permit Application		\$75

**WSR 18-15-044**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Economic Services Administration)  
[Filed July 13, 2018, 9:12 a.m., effective August 13, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The department is amending WAC 388-444-0040 in order to update the eligibility policies of work registrants including, but not limited to, the able-bodied adults without dependents population, bringing them into compliance with federal regulations.

Citation of Rules Affected by this Order: Amending WAC 388-444-0040.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090, 74.04.500, 74.08A.120.

Other Authority: 7 C.F.R. 273.24, 7 C.F.R. 273.7.

Adopted under notice filed as WSR 18-11-120 on May 22, 2018.

Changes Other than Editing from Proposed to Adopted Version: The department restored stricken subsection (3) as subsection (6) "The department may pay for some of the costs for you to participate in work programs. We set the standards for the amount we will pay for these expenses."

A final cost-benefit analysis is available by contacting Holly St. John, Program Manager, Economic Services Administration, Community Services Division, P.O. Box 45470, Olympia, WA 98504, phone 360-725-4895, fax 360-725-4905, email stjohhc@dshs.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 1, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: July 9, 2018.

Katherine I. Vasquez  
Rules Coordinator

**AMENDATORY SECTION** (Amending WSR 14-18-028, filed 8/26/14, effective 9/26/14)

**WAC 388-444-0040 ((Can)) May I volunteer for an unpaid work program in order to meet the work requirements under WAC 388-444-0030? ((The department makes)) May I volunteer for an unpaid work ((programs available for persons who need)) program to meet the work requirements under WAC 388-444-0030((?-)))?**

(1) ((The following are considered unpaid work programs:

(a) Workfare, which includes:

((i) Job search activities during the first thirty days beginning with the day of application, or sixteen hours of volunteer work with a public or private nonprofit agency; and

((ii) In subsequent months, sixteen hours per month of volunteer work with a public or private nonprofit agency allows you to remain eligible for basic food benefits.)

((iii) Workfare does not include enforced community service or for paying fines or debts due to legal problems.)

((b) Work experience (WEX) which provides supervised, unpaid work for at least twenty hours a week. WEX is intended to improve a person's work skills and make them more competitive in the job market. WEX must be for a non-profit organization, government agency, or tribal entity)) To meet the work requirements of WAC 388-444-0030, you may volunteer for workfare, an unpaid work program that includes work with public or private nonprofit agencies contracted with the department of social and health services.

(2) We determine the number of hours you must participate by taking the total amount of food benefits your assistance unit (AU) receives and divide it by the state or local minimum wage, whichever is higher.

((2))) (3) If there are multiple able-bodied adults without dependents (ABAWD) in your AU, they share the responsibility of meeting the required number of hours.

(4) Workfare does not include court-ordered community service.

(5) We ((may not require)) cannot require you to participate more than one hundred and twenty hours per month in an unpaid-work program, paid work, or a combination of activities. ABAWDs may choose to volunteer to participate in activities beyond one hundred and twenty hours per month.

((3))) (6) The department may pay for some of the costs for you to participate in work programs. We set the standards for the amount we will pay for these expenses.

## WSR 18-15-046

### PERMANENT RULES

### DEPARTMENT OF

### SOCIAL AND HEALTH SERVICES

(Developmental Disabilities Administration)

[Filed July 13, 2018, 12:42 p.m., effective August 13, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The department is amending WAC 388-823-0600, 388-823-0610, 388-823-1005, and 388-823-1010 in order to align with the definition of developmental disability under RCW 71A.10.020 and remove developmental disabilities administration (DDA) eligibility as a barrier to accessing medically intensive children program (MICP) services under chapter 182-551 WAC. These amendments also ensure clients who became eligible for DDA due solely to MICP eligibility remain DDA eligible as long as they continue to receive fee-for-service MICP services. Finally, these amendments also simplify the review and expiration rules for clients turning twenty.

Citation of Rules Affected by this Order: Amending WAC 388-823-0600, 388-823-0610, 388-823-1005, and 388-823-1010.

Statutory Authority for Adoption: RCW 71A.12.030.

Other Authority: RCW 71A.10.020.

Adopted under notice filed as WSR 18-11-124 on May 22, 2018.

A final cost-benefit analysis is available by contacting Chantelle Diaz, P.O. Box 45310, Olympia, WA 98504-5310, phone 360-407-1589, fax 360-407-0955, TTY 1-800-833-6388, email Chantelle.Diaz@dshs.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 4, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 4, Repealed 0.

Date Adopted: July 13, 2018.

Katherine I. Vasquez  
Secretary

**AMENDATORY SECTION** (Amending WSR 14-12-046, filed 5/29/14, effective 7/1/14)

**WAC 388-823-0600 How do I show that I have another neurological or other condition similar to intellectual disability?** In order to be considered for eligibility under the category of another neurological or other condition similar to intellectual disability you must ((meet one of the three criteria below)):

(1) ((You are)) Be age four or older and have a diagnosis by a licensed physician of a neurological or chromosomal disorder that ((is known by reputable authorities to cause intellectual and adaptive skills deficits. Your condition meets all of the following)):

- (a) Originated before age eighteen;
- (b) Is known by reputable authorities to cause intellectual and adaptive skills deficits;
- (c) Is expected to continue indefinitely without improvement;
- ((e))) (d) Is other than intellectual disability, autism, cerebral palsy, or epilepsy;
- ((d))) (e) Is not attributable to nor is itself a mental illness, or emotional, social, or behavior disorder; and
- ((e))) (f) Has resulted in substantial functional limitations.

(2) ((You are under the age of eighteen and are eligible for DSHS paid in-home nursing through the)) Be receiving fee-for-service medically intensive children program ((defined in WAC 182-551-3000.)) (MICP) services under chapter 182-551 WAC, and have been continuously eligible for DDA due solely to your MICP eligibility since before August 13, 2018; or

(3) ((You are)) Be under the age of ten and have one or more developmental delays.

**AMENDATORY SECTION** (Amending WSR 14-12-046, filed 5/29/14, effective 7/1/14)

**WAC 388-823-0610 If I have another neurological or other condition similar to intellectual disability, how do I meet the definition of substantial functional limitations?** If you have an eligible condition of another neurological or other condition similar to intellectual disability, in order to meet the definition of substantial functional limitations you must have impairments in both intellectual abilities and adaptive skills, which are separate from any impairment due to an unrelated mental illness, or emotional, social or behavioral disorder.

(1) For WAC 388-823-0600(1) evidence of substantial functional limitations requires documentation of (a) and (b) below:

(a) For impairment in intellectual abilities, either ((sub-item)) subsection (i) or (ii) or (iii) ((below)) of this section:

(i) An FSIQ score of more than 1.5 standard deviations below the mean ((as described in)) under WAC 388-823-0720 and subject to all of WAC 388-823-0720 and WAC 388-823-0730; ((or))

(ii) If you are under the age of twenty, significant academic delays defined as delays of more than two standard deviations below the mean at the time of testing in both broad reading and broad mathematics; or

(iii) A statement by a licensed physician, a licensed psychologist, or a school psychologist that your condition is so severe that you are unable to demonstrate the minimal skills required to complete testing for an FSIQ.

(b) For impairment in adaptive skills, a score of more than two standard deviations below the mean ((per)) under WAC 388-823-0740 and subject to all of WAC 388-823-0740 and WAC 388-823-0750.

(2) For WAC 388-823-0600(2) you do not need additional evidence of your substantial functional limitations if your eligible condition is solely due to your eligibility and participation in the fee-for-service medically intensive children program ((offered through DDA and defined in WAC 182-551-3000)) under chapter 182-551 WAC.

(3) For WAC 388-823-0600(3) evidence of substantial functional limitations requires documentation of (a) or (b) or (c) below:

(a) You are under the age of three and have one or more developmental delays ((per)) under WAC 388-823-0770((, or));

(b) You are under the age of three and meet the ESIT eligibility requirements((, or)); or

(c) You are under the age of ten and have three or more developmental delays ((per)) under WAC 388-823-0770.

**AMENDATORY SECTION** (Amending WSR 14-12-046, filed 5/29/14, effective 7/1/14)

**WAC 388-823-1005 When does my eligibility as a DDA client expire?** (1) If you are determined eligible ((prior to)) before age three, your eligibility expires on your fourth birthday.

(2) If you are determined eligible at age three but under age ten under developmental delays or Down syndrome your eligibility expires on your tenth birthday.

(3) ((If you are determined eligible under another neurological or other condition similar to intellectual disability and have used academic delays as evidence of your substantial limitations, your eligibility expires on your twentieth birthday.))

(4) If your eligibility determination is based solely on your need for nursing through the medically intensive children program, your eligibility expires when you are no longer eligible for the program or your eighteenth birthday, whichever comes first.

((5))) DDA will notify you at least six months before your eligibility expiration date.

((6))) (4) If your eligibility expires, you must reapply in order to maintain eligibility with DDA.

((7))) (5) If you fail to reapply before your expiration date or if DDA receives your reapplication less than sixty days ((prior)) before your expiration date and DDA does not have sufficient time to make an eligibility determination by the date of expiration, DDA eligibility will expire and your DDA paid services will stop.

(a) If DDA determines you eligible after your eligibility expires, your eligibility will be reinstated on the date that DDA determines you eligible ((pursuant to)) under WAC 388-823-0100.

(b) If DDA determines you eligible after your eligibility expires, your eligibility will not be retroactive to the expiration date.

((8)) (6) This expiration of eligibility takes effect even if DDA is unable to locate you to provide written notification that eligibility is expiring.

((9)) (7) There is no appeal right to eligibility expiration.

**AMENDATORY SECTION** (Amending WSR 14-12-046, filed 5/29/14, effective 7/1/14)

**WAC 388-823-1010 When will DDA review my eligibility to determine if I continue to meet the eligibility requirements for DDA?** (1) DDA will review your eligibility ((at)):

(a) If you are age nineteen ((with termination occurring no sooner than your twentieth birthday if your most current)) and you have not received an eligibility determination ((was at sixteen or younger under intellectual disability, cerebral palsy, epilepsy, autism, or another neurological or other condition similar to intellectual disability).

(2) DDA will review your eligibility prior to the initial)) since on or before your sixteenth birthday;

(b) If you are age nineteen and were determined eligible under another neurological or other condition similar to intellectual disability and have used academic delays as evidence of your substantial functional limitations;

(c) Before authorization of any DDA paid service ((from DDA when)) if you are not currently receiving paid services ((and you are age nineteen or older)) and your most current eligibility determination was made ((prior to)) before June 1, 2005((.

(3) DDA will review your eligibility if DDA discovers:

(a) Your eligibility determination was made in error); ((or

(b)) (d) If the evidence used to make your most recent eligibility determination ((appears to be)) is insufficient, ((in)) contains an error, or appears fraudulent; ((or

(e)) (e) If new ((diagnostic)) information becomes available that does not support your current eligibility determination; or

(f) If you were determined eligible due solely to your eligibility for fee-for-service (FFS) medically intensive children's program (MICP) services and you are no longer eligible for FFS MICP services.

((4)) (2) If DDA requires additional information to make a determination of eligibility during a review and you do not ((respond to the request for additional)) provide sufficient information, DDA will terminate your eligibility ((and any DDA services you are receiving either));

(a) On your twentieth birthday if the review is because you ((will be turning twenty)) are age nineteen; or

(b) Ninety days after DDA requests the information if the review is because:

(i) You have requested a paid service;

(ii) The evidence used to make your most recent eligibility determination is insufficient, contains an error, or appears fraudulent;

(iii) New information is available that does not support your current eligibility determination; or

(iv) You are no longer eligible for FFS MICP services under chapter 182-551 WAC.

**WSR 18-15-047**

**PERMANENT RULES**

**DEPARTMENT OF**

**FISH AND WILDLIFE**

[Order 18-161—Filed July 13, 2018, 2:07 p.m., effective August 13, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: This is to clarify the process for anglers who catch Canadian-based food fish and shellfish and land their catch in Washington state ports. The proposed change to the rule will make it easier for anglers to obtain a valid Canadian custom clearance number.

Citation of Rules Affected by this Order: Amending WAC 220-310-210 Possession and delivery of Canadian-origin food fish and shellfish.

Statutory Authority for Adoption: RCW 77.04.090, 77.04.130, 77.15.568, 77.08.010, 77.65.510, 77.65.515, 77.65.520.

Adopted under notice filed as WSR 18-10-104 on May 2, 2018.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: July 13, 2018.

Brad Smith, Chair  
Fish and Wildlife Commission

**AMENDATORY SECTION** (Amending WSR 17-16-109, filed 7/28/17, effective 8/28/17)

**WAC 220-310-210 Possession and delivery of Canadian-origin food fish and shellfish.** (1) ((Canadian license required)) It is unlawful to possess in marine waters or deliver into Washington shellfish or food fish taken for personal use from Canadian waters unless the person ((who)) also possesses ((or delivers the shellfish or food fish possesses)) a valid Canadian sport fishing license and catch record card, if one is required((, for the shellfish and food fish taken)).

(2) Canadian-origin rockfish restrictions: It is unlawful to possess yelloweye or canary rockfish taken for personal use from Canadian waters.

(3) Canadian-origin halibut restrictions:

(a) The daily limit of halibut is one daily limit, regardless of the origin of the halibut.

(b) The possession limit is two halibut if at least one halibut was taken from Washington waters. It is unlawful to possess in excess of the Canadian possession limit of halibut for the time and area fished if all halibut were taken from Canadian waters.

(c) It is unlawful to possess more than one daily limit of halibut aboard the fishing vessel.

(4) Canadian-origin salmon restrictions:

(a) It is unlawful to possess in marine waters or deliver into Washington any fresh salmon taken for personal use from Canadian waters unless:

(i) Such salmon ((meet current)) are in compliance with current salmon regulations for the waters of the applicable department of fish and wildlife catch record card area((. However, if the vessel operator has a valid Canadian customs clearance number obtained once they are in Canadian waters fishers aboard the vessel may deliver Canadian origin salmon into Washington that are lawfully taken in Canada, regardless of whether the salmon meet the current salmon regulations for the area where delivered.)); or

(ii) The vessel operator obtained a valid Canadian customs clearance number while the vessel was moored at a Canadian government dock in Ucluelet, Victoria, Sydney, White Rock, or Bedwell Harbor, British Columbia; or

(iii) The vessel operator has completed and submitted the trip report via the internet at [http://wdfw/licensing/canadian\\_catch.php;](http://wdfw/licensing/canadian_catch.php;) and

(iv) The salmon in possession are in compliance with Canadian fishing regulations.

(b) It is unlawful to fish for any species in state or offshore waters from a vessel having Canadian-origin salmon aboard that do not meet the current salmon regulations for the waters being fished.

(c) It is unlawful for a fisher to fish for any species in state or offshore waters if the fisher possesses in the field any salmon that do not meet the current salmon regulations for the waters being fished.

(5) "Delivery" of Canadian-origin fish into Washington defined. For the purposes of this section, "delivery" means transportation by a private or commercial recreational fishing vessel. Delivery in Washington is complete when, within the state, the vessel anchors, moors, ties to a float or pier, or is placed or attempted to be placed on a boat trailer. "Delivery" is also complete if the fish or shellfish are offloaded from the vessel within state waters.

Citation of Rules Affected by this Order: Amending WAC 132E-130-030.

Statutory Authority for Adoption: RCW 28B.50.140.

Adopted under notice filed as WSR 18-06-069 on March 5, 2018.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: July 16, 2018.

Stephen Smith  
Interim Executive Director  
of Human Resources

#### AMENDATORY SECTION (Amending WSR 82-18-068, filed 9/1/82)

**WAC 132E-130-030 Seniority.** Seniority shall be determined by establishing the beginning date ((of the signing)) of the first full-time contract for continuous full-time professional services for Community College District V and continuous professional services for the Everett school district prior to July 1967. Continuous service shall include leaves of absence, professional leaves, and periods of layoffs. The longest term of employment as thus established shall be considered the highest level of seniority. In instances where faculty members have the same contract beginning date of full-time professional service, seniority shall be determined ((in the following order:

- (1) First date of signature of an employment contract.
- (2) First date of signature of letter of intent.
- (3) First date of application for employment)) as described in the collective bargaining agreement.

#### WSR 18-15-059

#### PERMANENT RULES

#### EVERETT COMMUNITY COLLEGE

[Filed July 16, 2018, 12:09 p.m., effective August 16, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Clarifying WAC 132E-133-020 Organization—Operation—Information (location addresses).

Citation of Rules Affected by this Order: Amending WAC 132E-133-020.

Statutory Authority for Adoption: RCW 28B.50.140.

#### WSR 18-15-058 PERMANENT RULES EVERETT COMMUNITY COLLEGE

[Filed July 16, 2018, 12:08 p.m., effective August 16, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Clarifying WAC 132E-130-030 Seniority.

Adopted under notice filed as WSR 18-06-068 on March 5, 2018.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: July 16, 2018.

Stephen Smith  
Interim Executive Director  
of Human Resources

**AMENDATORY SECTION** (Amending WSR 16-08-121, filed 4/6/16, effective 5/7/16)

**WAC 132E-133-020 Organization—Operation—**

**Information.** (1) Organization. Everett Community College is established in Title 28B RCW as a public institution of higher education. The institution is governed by a five-member board of trustees, appointed by the governor. The board employs a president, who acts as the chief executive officer of the institution. The president establishes the structure of the administration.

(2) Operation. The administrative office is located at the following address:

President's Office  
Everett Community College  
2000 Tower Street  
Everett, WA 98201-1352

The office hours are 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays. Educational operations are also located at the following addresses:

Everett Community College  
Aviation Maintenance Technician School  
9711 - 31st Place W.  
Building C-80  
Paine Field  
Everett, WA 98204

Everett Community College  
Corporate & Continuing Education Center  
2333 Seaway Blvd.  
Everett, WA 98204

Everett Community College  
Advanced Manufacturing Training and  
Education Center (AMTEC)  
909 N. Broadway Avenue

**Everett, WA 98201**

Everett Community College  
School of Cosmetology  
9315 G State Avenue  
Marysville, WA 98270

Everett Community College  
Early Learning Center  
820 Waverly Avenue  
Everett, WA 98201

Everett Community College  
Walt Price Student Fitness Center  
2206 Tower Street  
Everett, WA 98201

(3) Information. Additional and detailed information concerning the educational offerings may be obtained from the catalog, copies of which are available at the following address:

Everett Community College  
2000 Tower Street  
Everett, WA 98201-1352

**WSR 18-15-060**

**PERMANENT RULES**

**EVERETT COMMUNITY COLLEGE**

[Filed July 16, 2018, 12:09 p.m., effective August 16, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Clarifying WAC 132E-108-050 Brief adjudicative procedures.

Citation of Rules Affected by this Order: Amending WAC 132E-108-050.

Statutory Authority for Adoption: RCW 28B.50.140.

Adopted under notice filed as WSR 18-06-067 on March 5, 2018.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: July 16, 2018.

Stephen Smith  
Interim Executive Director  
of Human Resources

**AMENDATORY SECTION** (Amending WSR 90-09-006, filed 4/5/90, effective 5/6/90)

**WAC 132E-108-050 Brief adjudicative procedures.**

This rule is adopted in accordance with RCW 34.05.482 through 34.05.494, the provisions of which are hereby adopted. Brief adjudicative procedures shall be used in all matters related to:

(1) Residency determinations made pursuant to RCW 28B.15.013, conducted by the admissions office;

(2) Challenges concerning education records consistent with state and federal law;

(3) ~~((Student conduct proceedings. The procedural rules in WAC 132E-108-010 apply to these proceedings.~~

((4))) Parking violations. The procedural rules in WAC 132E-108-010 apply to these proceedings;

((5))) (4) Outstanding debts owed by students or employees;

((6))) (5) Loss of eligibility for participation in institution-sponsored athletic events((:));

((7))) (6) Appeals associated with the use of human subjects.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 8, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: July 16, 2018.

Joe Stohr  
Director

**AMENDATORY SECTION** (Amending WSR 17-16-109, filed 7/28/17, effective 8/28/17)

**WAC 220-220-160 Two-pole endorsement.** Anglers who possess a valid two-pole endorsement may fish with two lines in all lakes and ponds open to fishing, with the following exceptions:

Water Body	County	
Para-juvenile Lake	Adams	
Headgate Pond	Asotin	
Columbia Park Pond	Benton	
Blackbird Island Pond	Chelan	
Aldwell Lake	Clallam	
Beaver Lake	Clallam	
Carrie Blake Pond	Clallam	
Dickey Lake	Clallam	
Lake Pleasant	Clallam	
Lincoln Pond	Clallam	
Sutherland Lake	Clallam	
Vancouver Lake	Clark	Includes all other waters west of Burlington-Northern Railroad from Columbia River drawbridge near Vancouver downstream to Lewis River.
Big Four Lake	Columbia	
Dayton Pond	Columbia	
Blue Lake	Cowlitz	
Castle Lake	Cowlitz	
Coldwater Lake	Cowlitz	
Lewis River Power Canal	Cowlitz	Includes old Lewis River streambed between Swift No. 1 powerhouse and Swift No. 2 powerhouse.
Merrill Lake	Cowlitz	
Silver Lake	Cowlitz	
Pit Lake	Douglas	
Ping Pond	Grant	
Mill Creek Pond	Grays Harbor	
Quigg Lake	Grays Harbor	Located at Friends Landing near Montesano.
Vance Creek Pond #1	Grays Harbor	
Gibbs Lake	Jefferson	
Horseshoe Lake	Jefferson	

**WSR 18-15-065  
PERMANENT RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 18-163—Filed July 16, 2018, 3:05 p.m., effective August 16, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Recreational salmon fishing rules for Puget Sound, coast and Columbia River freshwater and Puget Sound and coast saltwater based on North of Falcon recommendations change from year-to-year to reflect resource availability and to achieve conservation goals. Amendments to recreational salmon fishing rules are needed to implement the agreed-upon changes.

Citation of Rules Affected by this Order: Amending WAC 220-220-160 Two-pole endorsement, 220-312-020 Freshwater exceptions to statewide rules—Coast, 220-312-030 Freshwater exceptions to statewide rules—Southwest, 220-312-040 Freshwater exceptions to statewide rules—Puget Sound, 220-312-050 Freshwater exceptions to statewide rules—Eastside, 220-312-060 Freshwater exceptions to statewide rules—Columbia, 220-313-060 Puget Sound salmon—Saltwater seasons and daily limits, and 220-313-070 Coastal salmon—Saltwater seasons and daily limits.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047.

Adopted under notice filed as WSR 18-12-120 on June 6, 2018.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Water Body	County	Water Body	County	
Teal Lake	Jefferson	North Gissburg Pond	Snohomish	
Lake Sammamish	King	Spada Lake	Snohomish	
Lake Union	King	Bear Lake	Spokane	
Lake Washington	King	Including that portion of Sammamish River from 68th Ave. NE bridge downstream.	North Silver Lake Spokane Lucky Duck Pond Long's Pond Munn Lake Jefferson Park Pond Lions Park Pond Diablo Lake Gorge Lake Lake Whatcom Ross Lake Squalicum Lake Garfield Juvenile Pond Clear Lake Leech Lake Mud Lake Myron Lake Sarge Hubbard Park Pond Yakima Sportsmen's Park Ponds	Spokane Stevens Thurston Thurston Walla Walla Walla Walla Whatcom Whatcom Whatcom Whatcom Whitman Yakima Yakima Yakima Yakima Yakima White Pass area. Yakima
Lake Washington Ship Canal	King	(Including Lake Union, Portage Bay, and Salmon Bay) Waters east of a north-south line 400' west of the Chittenden Locks to the Montlake Bridge. Auburn.		
Mill Pond	King			
Old Fishing Hole Pond	King	Kent.		
Portage Bay	King			
Salmon Bay	King			
Swans Mill Pond	King			
Koeneman Lake	Kitsap	Formerly Fern Lake.		
Kachess Lake	Kittitas			
Keechelus Lake	Kittitas			
Kiwanis Pond	Kittitas			
Naneum Pond	Kittitas			
Cowlitz Falls Reservoir	Lewis			
Mayfield Lake	Lewis	Mayfield Dam to Mossyrock Dam.		
Packwood Lake	Lewis			
Scanewa Lake	Lewis	Cowlitz Falls Reservoir.		
Walupt Lake	Lewis			
Willame Lake	Lewis			
Cady Lake	Mason			
Cushman Reservoir	Mason			
Prices Lake	Mason			
Stump Lake	Mason			
Silvernail Lake	Okanogan			
Cases Pond	Pacific			
South Bend Mill Pond	Pacific			
Bradley Lake	Pierce			
De Coursey Pond	Pierce			
Ohop Lake	Pierce			
Tanwax Lake	Pierce			
Wapato Lake	Pierce			
Granite Lakes	Skagit	Near Marblemount.		
Northern State Hospital Pond	Skagit			
Vogler Lake	Skagit			
Drano Lake	Skamania	January 1 through April 30 and July 1 through September 30.		
Swift Reservoir	Skamania	From dam to Eagle Cliff Bridge.		
Fortson Mill Pond #2	Snohomish			
Jennings Park Pond	Snohomish			
Monte Cristo Lake	Snohomish			

Anglers who possess a valid two-pole endorsement may fish with two lines in the following river sections:

River	County	Section
Chehalis	Grays Harbor	From Highway 101 Bridge in Aberdeen to South Elma Bridge (Wakefield Road): August 1 through November 30.
Columbia		Camas Slough: August 1 through December 31.
		From Highway 395 Bridge at Pasco to Old Hanford townsite wooden powerline towers: Year-round, except for sturgeon.
		From wooden powerline towers to Vernita Bridge: February 1 through October 22, except for sturgeon.
		From Vernita Bridge to Priest Rapids Dam: Year-round, except for sturgeon.
		From Priest Rapids Dam to Wanapum Dam: July 1 through August 31.
		From Wanapum Dam to Wells Dam: July 1 through August 31.
		From Wells Dam to Highway 173 Bridge at Brewster: July 16 through August 31.

River	County	Section	Description	Marine Area
Cowlitz	Lewis	From Highway 173 Bridge at Brewster to Chief Joseph Dam: July 1 through August 31.  <u>(Lexington Bridge Drive-in Kelseo) From the boundary markers at the mouth upstream to 400' or posted markers below the Barrier Dam.</u>	Port Susan and Port Gardner  Seattle/Bremerton Area  Hood Canal  South Puget Sound	Tulalip Terminal Area: May 1 through September 30.  Sinclair Inlet: July 1 through September 30.  12: South of Aycock only, excluding Hoodsport Hatchery zone: July 1 through September 30.  13.
((Lewis	Clark	<u>From railroad bridge near Kuhnis Road to mouth of East Fork Lewis.)</u>		
((North Fork)) Lewis	Clark/Cowlitz	<u>From a straight line running from a fishing boundary marker or from the outermost upland at the north shore of the Lewis River mouth, southerly across the Lewis River to a fishing boundary marker near the south shore upstream to the mouth ((to)) of Johnson Creek.</u>		
Naselle	Pacific/Wahkiakum	From Highway 101 Bridge to ((Highway 40+)) the mouth of the South Fork: August 1 through January 31.		
Okanogan	Okanogan	From the mouth to Highway 97 Bridge immediately upstream of the mouth: July 1 through August 31.		
Pend Oreille	Pend Oreille			
Palouse	Whitman	Mouth to base of Palouse Falls: June 16 through August 31.		
Spokane	Spokane and Stevens	Lower Spokane River from mouth (SR 25 bridge) to 400' below Little Falls Dam.		
Willapa	Pacific	From the city of South Bend boat launch to the 2nd bridge on Camp One Road: August 1 through January 31.		
Wind	Skamania	Salmon and steelhead: Mouth (boundary line/markers) to the Highway 14 Bridge: ((May +)) March 16 through June 30.		
Yakima	Yakima	From Highway 240 Bridge to 400' below Prosser Dam: March 1 through August 31.		

Anglers who possess a valid two-pole endorsement may fish for salmon with two lines in the following marine areas:

Description	Marine Area
Willapa	2-1. When permissible in WAC 220-313-070.

(c) It is unlawful to use bait.

(d) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

(6) **Beaver Lake (Clallam County):** Selective gear rules.

(7) **Big River (Clallam County), outside of Olympic National Park:**

(a) Open the Saturday before Memorial Day through October 15, and January 1 through the last day of February.

(b) Selective gear rules.

(c) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(8) **Big River tributaries (Clallam County), outside of Olympic National Park:** Open the Saturday before Memorial Day through October 15.

(9) **Black River (Grays Harbor/Thurston counties):**

((A)) From the mouth to ((State Highway 12:

(i) Selective gear rules.

(ii) the bridge on 128th Ave. S.W.:

(a) Anti-snagging rule.

(b) Night closure.

(c) Barbless hooks required.

(d) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

((B)) From Highway 12 to bridge on 128th Ave. S.W.:

(i) Anti-snagging rule.

(ii) Night closure.

(iii) Barbless hooks required.

(iv) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

((C)) (e) Salmon: Open October 1 through ((December 31)) November 30.

((A)) (i) Daily limit 6, of which 2 may be adults.

((B)) Only one wild coho may be retained.

((C)) (ii) Release adult Chinook and ((ehum)) wild adult coho.

(10) **Bogachiel Hatchery Pond, South (Clallam County):** Open the fourth Saturday in April through October 31.

(11) **Bogachiel River (Clallam County):**

(a) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(b) It is unlawful to use anything other than one barbless hook.

(c) From the mouth to Highway 101 Bridge:

(i) Open the Saturday before Memorial Day through April 30.

(ii) It is unlawful to use bait the Saturday before Memorial Day through August 31 and February 16 through April 30.

(iii) Game fish: Statewide minimum length/daily limit, except:

(A) Release wild rainbow trout.

(B) Cutthroat trout: Minimum length 14 inches.

(C) November 1 through last day in February: Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

(iv) Salmon:

(A) From July 1 through August 31:

(I) Limit 6; no more than 2 adults may be retained.

(II) Release wild adult Chinook and wild adult coho.

(B) From September 1 through November 30: Limit 3; no more than one adult may be retained.

(d) From Highway 101 Bridge to Olympic National Park boundary:

(i) Open the Saturday before Memorial Day through April 30.

(ii) It is unlawful to use bait.

(iii) Game fish: Statewide minimum length/daily limit, except:

(A) Release wild rainbow trout.

(B) Cutthroat trout: Minimum length 14 inches.

(12) **Calawah River (Clallam County):**

(a) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(b) It is unlawful to use anything other than one barbless hook.

(c) From the mouth to the Highway 101 Bridge:

(i) Open the Saturday before Memorial Day through April 30.

(ii) It is unlawful to use bait the Saturday before Memorial Day through August 31 and February 16 through April 30.

(iii) Game fish: Statewide minimum length/daily limit, except:

(A) Release wild rainbow trout.

(B) Cutthroat trout: Minimum length 14 inches.

(C) From November 1 through the last day in February: Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

(iv) Salmon ((open July 1 through November 30)):

(A) ((From)) Open July 1 through August 31:

(I) Limit 6; only 2 adults may be retained.

(II) Release wild adult Chinook and wild adult coho.

(B) ((From)) Open September 1 through November 30:

(I) Limit 3; only one adult may be retained.

(II) Release wild adult coho.

(d) From the Highway 101 Bridge to the forks:

(i) Open the Saturday before Memorial Day through April 30.

(ii) It is unlawful to use bait.

(iii) Game fish: Statewide minimum length/daily limit, except:

(A) Release wild rainbow trout.

(B) Cutthroat trout: Minimum length 14 inches.

(13) **Calawah River, North Fork (Clallam County):**

(a) It is unlawful to use anything other than one barbless hook.

(b) It is unlawful to use bait.

(c) Game fish: Statewide minimum length/daily limit, except:

(i) Release wild rainbow trout.

(ii) Cutthroat trout: Minimum length 14 inches.

(14) **Calawah River, South Fork (Clallam County):**

(a) From the mouth to the Olympic National Park boundary:

(b) Open the Saturday before Memorial Day through the last day in February.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) It is unlawful to use anything other than one barbless hook.

(e) It is unlawful to use bait.

(f) Game fish: Statewide minimum length/daily limit, except:

(i) Release wild rainbow trout.

(ii) Cutthroat trout: Minimum length 14 inches.

(15) **Canyon River (Grays River County):** Closed waters.

(16) **Cases Pond (Pacific County):** Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

(17) **Cedar Creek (Jefferson County), outside Olympic National Park:**

(a) Open the Saturday before Memorial Day through the last day in February.

(b) Selective gear rules.

(c) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(18) **Chehalis River (Grays Harbor County), including all channels, sloughs, and interconnected waterways:**

(a) From the mouth (Highway 101 Bridge in Aberdeen) to ((South Elma Bridge (Wakefield Road))) Highway 107 Bridge including all channels, sloughs, and interconnected waterways:

(i) From August 1 through November 30: Single-point barbless hooks are required.

(ii) Anglers may fish with two poles ((from the mouth to the South Elma Bridge (Wakefield Road))), provided they possess a valid two-pole endorsement.

(iii) Open the Saturday before Memorial Day through April 15:

(iv) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(v) Salmon:

(A) From August 1 through September 15:

(I) Limit 6.

(II) Release adult salmon.

(B) From ((September 16)) October 1 through ((December 31)) November 30:

(I) Limit 6; only ((two)) one adult((s)) may be retained.

(II) ((Only one wild adult coho may be retained.

(III)) Release adult Chinook.

(C) From ((January)) May 1 through ((January 31:

(I) Limit 6; only two adults may be retained.

(II) Release Chinook and wild coho)) June 30: Limit one Chinook.

(b) From the Highway 107 Bridge upstream to the South Elma Bridge (Wakefield Road).

(i) From August 1 through November 30: Single-point barbless hooks are required.

(ii) Anglers may fish with two poles from the mouth to the South Elma Bridge (Wakefield Road), provided they possess a valid two-pole endorsement.

(iii) Open the Saturday before Memorial Day through April 15.

(iv) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(v) Salmon:

(A) From August 1 through September 15:

(I) Limit 6.

(II) Release adult salmon.

(B) From October 1 through November 30:

(I) Limit 6; only 2 adults may be retained.

(II) Release adult Chinook and wild adult coho.

(C) From May 1 through June 30: Limit one Chinook.

(c) From South Elma Bridge (Wakefield Road) to the confluence with Black River:

(i) All species: Single-point barbless hooks are required August 1 through November 30.

(ii) Open the Saturday before Memorial Day through April 15.

(iii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(iv) Salmon:

(A) From ((September 16)) October 1 through ((December 31)) November 30:

(I) Limit 6; only ((two)) 2 adults may be retained.

(II) ((Only one wild adult coho may be retained.

(III)) Release adult Chinook and wild adult coho.

(B) From ((January)) May 1 through ((January 31:

(I) Limit 6; only two adults may be retained.

(II) Release Chinook and wild coho)) June 30: Limit one Chinook.

((e)) (d) From the confluence of Black River to the ((high bridge on Weyerhaeuser 1000 line approximately 400 yards downstream of Roger Creek (south of Pe Ell))) Highway 6 Bridge near the town of Adna:

(i) All species August 16 through November 30: Single-point barbless hooks are required.

(ii) Open the Saturday before Memorial Day through April 15.

(iii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(iv) Salmon:

(A) From ((September 16)) October 1 through ((December 31)) November 30:

(I) Limit 6; only ((two)) 2 adults may be retained.

(II) ((Only one wild coho may be retained.

(III) Release Chinook and chum.)) Release adult Chinook and wild adult coho.

(B) From ((January)) May 1 through ((January 31)) June 30: ((I) Limit 6; only two adults may be retained.

(II) Release Chinook, chum, and wild coho.

(III) Limit one Chinook.

(e) From Highway 6 Bridge near the town of Adna to the high bridge on Weyerhaeuser 1000 line (approximately 400 yards downstream from Roger Creek (south of Pe Ell):

(i) All species August 16 through November 30: Single-point barbless hooks are required.

(ii) Open the Saturday before Memorial Day through April 15.

(iii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(iv) Salmon:

(A) From October 1 through November 30:

(B) Limit 6; only 2 adults may be retained.

(C) Release adult Chinook and wild adult coho.

(f) From high bridge on Weyerhaeuser 1000 line (approximately 400 yards downstream from Roger Creek, south of Pe Ell, including all forks) upstream:

(i) Open the Saturday before Memorial Day through April 15.

(ii) Selective gear rules.

(iii) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

(19) **Chehalis River, South Fork (Lewis County):** From the mouth to County Highway Bridge near Boistfort School:

(a) Open the Saturday before Memorial Day through April 15.

(b) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(20) **Chimacum Creek (Jefferson County):**

(a) From the mouth to Ness's Corner Road:

(i) Open the Saturday before Memorial Day through August 31.

(ii) Selective gear rules.

(iii) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

(b) From Ness's Corner Road upstream:

(i) Open the Saturday before Memorial Day through October 31.

(ii) Selective gear rules.

(iii) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

(21) **Clallam River (Clallam County):**

(a) Open the Saturday before Memorial Day through October 31:

(i) Selective gear rules.

(ii) Release all fish.

(b) Open from November 1 through January 31:

(i) Game fish: Statewide minimum length/daily limit, except:

(ii) Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(22) **Clearwater River (Jefferson County):**

(a) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(b) It is unlawful to use anything other than one barbless hook.

(c) From the mouth to Snahapish River:

(i) Open the Saturday before Memorial Day through September 30 and December 1 through April 15((~~15~~)).

(ii) Bait is allowed September 1 through February 15.

(iii) Game fish: Statewide minimum length/daily limit, except:

(A) Release wild rainbow trout.

(B) Cutthroat trout: Minimum length 14 inches.

(iv) Salmon: Open September 1 through September 30:

(A) Limit 3; only one adult may be retained;

(B) Release wild coho.

(d) From the Snahapish River upstream:

(i) Open the Saturday before Memorial Day through September 30.

(ii) It is unlawful to use bait.

(iii) Game fish: Statewide minimum length/daily limit, except:

(A) Release wild rainbow trout.

(B) Cutthroat trout: Minimum length 14 inches.

(23) **Cloquallum Creek (Grays Harbor County):**

From the mouth to the outlet at Stump Lake:

(a) Open the Saturday before Memorial Day through the last day in February.

(b) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(24) **Copalis River (Grays Harbor County):**

(a) From the mouth to Carlisle Bridge:

(i) From the Saturday before Memorial Day through last day in February.

(ii) It is permissible to retain hatchery steelhead with a dorsal fin height of less than 2 1/8 inches or with an adipose or ventral fin clip.

(iii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(iv) Salmon: From October 1 through ((December 31)) November 30.

(A) Limit 6; only ((two)) one adult salmon may be retained.

(B) ((Only one wild adult coho may be retained.))

((C))) Release adult Chinook.

(b) From Carlisle Bridge upstream:

(i) Open the Saturday before Memorial Day through the last day in February.

(ii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(25) **Crim Creek (Lewis County) (Chehalis River tributary):** Closed waters.

(26) **Deep Creek (Clallam County) (tributary to the straits):**

(a) Open December 1 through January 31.

(b) Selective gear rules.

(c) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

(27) **Dickey River (Clallam County):**

(a) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(b) It is unlawful to use anything other than one barbless hook.

(c) From Olympic National Park boundary upstream to the confluence of the East and West forks:

(i) Open the Saturday before Memorial Day through April 30.

(ii) It is unlawful to use bait the Saturday before Memorial Day through August 31 and February 16 through April 30.

(iii) Game fish: Statewide minimum length/daily limit, except:

- (A) Release wild rainbow trout.
- (B) Cutthroat trout: Minimum length 14 inches.
- (iv) Salmon: Open July 1 through November 30:
- (A) July 1 through August 31:
- (I) Limit 6; only 2 adults may be retained.
- (II) Release wild adult Chinook and wild adult coho.
- (B) September 1 through November 30:
- (I) Limit 3; only one adult may be retained.
- (II) Release wild adult coho.

(d) From the confluence of the East and West forks upstream (for both forks):

(i) Open the Saturday before Memorial Day through April 30.

(ii) It is unlawful to use bait.

(iii) Game fish: Statewide minimum length/daily limit, except:

- (A) Release wild rainbow trout.
- (B) Cutthroat trout: Minimum length 14 inches.

**(28) Duck Lake (Grays Harbor County):**

(a) Game fish: Statewide minimum length/daily limit, except: Crappie: No limit and no minimum length.

(b) Grass carp: No limit for anglers and bow and arrow fishing.

**(29) Dungeness River (Clallam County):** From the mouth to the forks at Dungeness Forks Campground:

(a) Open October ((6)) 16 through January 31.

(b) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(c) Salmon:

(i) Open October 16 through November 30 (~~from the mouth to the hatchery intake pipe at river mile 11.3~~).

(ii) Limit 4 coho only.

(iii) Release wild coho.

**(30) East Twin River (Clallam County):**

(a) Selective gear rules.

(b) Release all fish.

**(31) Elk Creek (Lewis County) (Chehalis River tributary):** Open the Saturday before Memorial Day through September 30 and January 1 through March 31.

**(32) Elk Lake (Clallam County):**

(a) Open the Saturday before Memorial Day through October 15.

(b) Selective gear rules.

(c) Game fish: Statewide minimum length/daily limit, except:

(i) Trout: Daily limit 2; minimum length 14 inches.

(ii) Release kokanee.

**(33) Elk River (Grays Harbor County):**

(a) From the mouth (Highway 105 Bridge) to the confluence of the middle branch:

(i) Open the Saturday before Memorial Day through the last day in February.

(ii) From August 16 through November 30: Single-point barbless hooks are required.

(iii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(iv) Salmon: Open October 1 through November 30.

(A) Daily limit 6, of which 2 may be adults.

(B) ~~((Only one wild adult coho may be retained.~~

~~((C))) Release adult Chinook and wild adult coho.~~

(b) From confluence of the middle branch upstream:

(i) Open the Saturday before Memorial Day through the last day in February.

(ii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

**(34) Elwha River (Clallam County):** Closed waters.

**(35) Failor Lake (Grays Harbor County):** Open the fourth Saturday in April through September 15.

**((35)) (36) Fork Creek (Pacific County) (Willapa River tributary):**

(a) From Forks Creek Hatchery rack upstream 500 feet at fishing boundary sign:

(i) Open only for anglers with lower extremity disabilities who must permanently use a medically prescribed assistive device every time for mobility as defined in WAC 220-413-150 and possess a designated harvester companion card.

(ii) Night closure.

(iii) From October 1 through November 30:

(A) Single-point barbless hooks required.

(B) Stationary gear restriction.

(iv) Open the Saturday before Memorial Day through July 15 and October 1 through March 31.

(v) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(vi) Salmon open: ~~((A))~~ From October 1 through ~~((November 30))~~ January 31:

~~((H)) (A)~~ Limit 6; only 3 adults may be retained, and only ~~((2))~~ one may be a wild adult coho.

~~((H)) (B)~~ Release wild Chinook.

~~((B))~~ From December 1 through January 31:

~~((H))~~ Limit 6; only 2 adults may be retained, and only ~~((one))~~ one may be a wild coho.

~~((H)) (B)~~ Release wild Chinook.)

(b) From the fishing boundary sign 500 feet above Forks Creek Hatchery rack upstream to the source:

(i) Selective gear rules.

(ii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

**((36)) (37) Goodman Creek (Jefferson County), outside Olympic National Park:**

(a) Open the Saturday before Memorial Day through the last day in February.

(b) Selective gear rules.

(c) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

**((37)) (38) Gray Wolf River (Clallam County):**

(a) From the confluence with the Dungeness to the bridge at river mile 1.0: Closed waters.

(b) From the bridge at river mile 1.0, upstream:

(i) Selective gear rules.

(ii) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

**((38)) (39) Hoh River (Jefferson County):**

(a) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(b) It is unlawful to use anything other than one barbless hook.

(c) From the Olympic National Park boundary upstream to the DNR Oxbow Campground Boat Launch:

(i) It is unlawful to use bait from ~~((the Saturday before Memorial Day)) July 1 through September ((30)) 15~~ and February 16 through April 15.

(ii) Open the ~~((Saturday before Memorial Day)) July 1 through August 31 and September 16 through April 15~~:

(iii) Game fish: Statewide minimum length/daily limit, except:

(A) Release wild rainbow trout.

(B) Cutthroat trout: Minimum length 14 inches.

(C) From November 1 through February 15: Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

(iv) Salmon: Open September 16 through November 30: Limit 6; only 2 adults may be retained of which only one may be a Chinook.

(d) From the DNR Oxbow Campground Boat Launch to Morgans Crossing Boat Launch:

(i) Open ~~((the Saturday before Memorial Day)) June 1 through April 15~~.

(ii) It is unlawful to use bait the Saturday before Memorial Day through October 15 and December 1 through April 15.

(iii) Game fish: Statewide minimum length/daily limit, except:

(A) Release wild rainbow trout.

(B) Cutthroat trout: Minimum length 14 inches.

(iv) Salmon: Open October 16 through November 30: Limit 6; only 2 adults may be retained, of which only one may be a Chinook.

(e) From Morgan's Crossing Boat Launch upstream to the Olympic National Park boundary below mouth of South Fork Hoh River:

(i) Open ~~((the Saturday before Memorial Day)) June 1 through April 15~~.

(ii) It is unlawful to use bait.

(iii) It is unlawful to fish from a floating device.

(iv) Game fish: Statewide minimum length/daily limit, except:

(A) Release wild rainbow trout.

(B) Cutthroat trout: Minimum length 14 inches.

**((39)) (40) Hoh River, South Fork (Jefferson County), outside the Olympic National Park boundary:**

(a) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(b) Open ~~((the Saturday before Memorial Day)) July 1 through August 31 and September 16 through April 15~~.

(c) It is unlawful to use anything other than one barbless hook.

(d) It is unlawful to use bait.

(e) Game fish: Statewide minimum length/daily limit, except:

(i) Release wild rainbow trout.

(ii) Cutthroat trout: Minimum length 14 inches.

**((40)) (41) Hoko River (Clallam County):**

(a) From the mouth to the upper Hoko Bridge:

(i) From the hatchery ladder downstream 100 feet: Closed waters.

(ii) Open the Saturday before Memorial Day through March 15.

(iii) From September 1 through October 31: Open to fly fishing only.

(iv) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(b) From the upper Hoko Bridge to Ellis Creek Bridge (river mile 18.5):

(i) Open the Saturday before Memorial Day through March 31 to fly fishing only.

(ii) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

**((41)) (42) Hoquiam River, including West Fork (Grays Harbor County):**

(a) From the mouth (Highway 101 Bridge on Simpson) to Dekay Road Bridge (West Fork):

(i) August 16 through November 30: Single-point barbless hooks required.

(ii) Open the Saturday before Memorial Day through the last day of February:

(iii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(iv) Salmon: Open October 1 through ~~((December 31)) November 30~~.

(A) Daily limit 6, of which 2 may be adults.

(B) ~~((Only one wild coho may be retained))~~

(C) Release adult Chinook and wild adult coho.

(b) From Dekay Road Bridge upstream:

(i) Open the Saturday before Memorial Day through the last day of February.

(ii) Selective gear rules.

(iii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

**((42)) (43) Hoquiam River, East Fork (Grays Harbor County):**

(a) From the mouth to the confluence of Berryman Creek:

(i) August 16 through November 30: Single-point barbless hooks are required.

(ii) Open the Saturday before Memorial Day through the last day of February.

(iii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(iv) Salmon: Open October 1 through ~~((December 31)) November 30~~.

(A) Daily limit 6, of which 2 may be adults.

(B) ~~((Only one wild coho may be retained))~~

(C) Release adult Chinook and wild adult coho.

(b) From the confluence of Berryman Creek upstream:

(i) Open the Saturday before Memorial Day through the last day of February.

(ii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(iii) Selective gear rules.

**((43)) (44) Humptulips River (Grays Harbor County):**

(a) From the mouth (Jessie Slough) to the Highway 101 Bridge, including all channels, sloughs, and interconnected waterways:

(i) From August 16 through November 30:

(A) Night closure.

(B) Single-point barbless hooks are required.

(ii) Open the Saturday before Memorial Day through March 31.

(iii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(iv) Salmon:

(A) From September 1 through ((October 15)) September 30:

(I) Limit 6; only 2 adults may be retained of which only one may be a wild Chinook.

(II) Release ((wild Chinook and)) wild coho.

(B) From October ((16)) 1 through ((October 31)) November 30:

(I) Limit 6; only 2 adults may be retained((, and only one may be a Chinook)).

(II) Release wild adult Chinook and wild coho.

((C) From November 1 through January 31:

(I) Limit 6: Only two adults may be retained.

(II) Release Chinook and wild coho.)

(b) From the Highway 101 Bridge to the confluence of the East and West forks:

(i) From December 1 through March 31: It is unlawful to fish from a floating device equipped with an internal combustion motor.

(ii) From August 16 through November 30:

(A) Night closure.

(B) Single-point barbless hooks are required.

(iii) Open the Saturday before Memorial Day through March 31.

(iv) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(v) Salmon:

(A) From September 1 through ((October 15)) September 30:

(I) Limit 6; only 2 adults may be retained of which only one may be a wild Chinook.

(II) Release ((wild Chinook and)) wild coho.

(B) From October ((16)) 1 through ((October 31)) November 30:

(I) Limit 6; only 2 adults may be retained((, and only one may be a Chinook)).

(II) Release wild adult Chinook and wild coho.

((C) From November 1 through January 31:

(I) Limit 6: Only two adults may be retained.

(II) Release Chinook and wild coho.

((44)) (45) **Humptulips River, East Fork (Grays Harbor County):** From August 16 through October 31:

(a) Anti-snagging rule.

(b) Night closure.

((45)) (46) **Humptulips River, West Fork (Grays Harbor County):** From the mouth to Donkey Creek:

(a) From August 16 through November 30:

(i) Anti-snagging rule.

(ii) Night closure.

(b) Open the Saturday before Memorial Day through March 31.

(c) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

((46)) (47) **Joe Creek (Grays Harbor County):** From the mouth to Ocean Beach Road Bridge:

(a) August 16 through November 30: Single-point barbless hooks are required.

(b) Open the Saturday before Memorial Day through December 31.

(c) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(d) Salmon: Open October 1 through ((December 31)) November 30:

(i) Limit 6; only ((two)) one adult((s)) may be retained.

(ii) ((Only one wild adult Coho may be retained.

(iii)) Release adult Chinook.

((47)) (48) **Johns River (Grays Harbor County):** From the mouth (Highway 105 Bridge) to Ballon Creek:

(a) August 16 through November 30: Single-point barbless hooks are required.

(b) Open the Saturday before Memorial Day through the last day in February.

(c) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(d) Salmon: Open October 1 through November 30.

(i) Daily limit 6, of which 2 may be adults.

(ii) ((Only one wild adult coho may be retained.

(iii)) Release adult Chinook and wild adult coho.

((48)) (49) **Kalaloch Creek (Jefferson County), outside Olympic National Park:**

(a) Open the Saturday before Memorial Day through the last day in February:

(b) Selective gear rules.

(c) Game fish: State wide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

((49)) (50) **Lena Lake, Lower (Jefferson County):** The inlet stream from the mouth upstream to the footbridge (about 100 feet): Closed waters.

((50)) (51) **Lincoln Pond (Clallam County):** Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

((51)) (52) **Little Hoko River (Clallam County):**

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

**((52))) (53) Loomis Lake (Pacific County):** Open the fourth Saturday in April through October 31.

**((53)) (54) Lyre River (Clallam County):**

(a) From the mouth to falls near river mile 3:

(i) Open the Saturday before Memorial Day through January 31.

(ii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(b) From the falls to the Olympic National Park boundary:

(i) Selective gear rules.

(ii) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

**((54)) (55) Matheny Creek (Jefferson County) (Queets River tributary), outside the Olympic National Park:**

(a) Open the Saturday before Memorial Day through September 30.

(b) It is unlawful to use bait.

(c) It is unlawful to use anything other than one barbless hook.

(d) Game fish: Statewide minimum length/daily limit, except:

(i) Release wild rainbow trout.

(ii) Cutthroat trout: Minimum length 14 inches.

**((55)) (56) McDonald Creek (Clallam County):**

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

**((56) Middle Nemah River (Pacific County):**

~~(a) From the mouth upstream to the department of natural resources bridge on the Middle Nemah A-Line Road:~~

~~(i) Open the Saturday before Memorial Day through March 31.~~

~~(ii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.~~

~~(iii) From August 1 through November 30:~~

~~(A) Night closure.~~

~~(B) Single point barbless hooks are required.~~

~~(iv) Salmon:~~

~~(A) Open September 1 through January 31.~~

~~(B) Limit 6; no more than 4 adults may be retained.~~

~~(C) Release wild Chinook.~~

~~(b) From the department of natural resources bridge on the Middle Nemah A-Line Road upstream:~~

~~(i) Open the Saturday before Memorial Day through March 31:~~

~~(ii) Selective gear rules.~~

~~(iii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.~~

~~(iv) From August 16 through November 30:~~

~~(A) Anti-snagging rule.~~

~~(B) Night closure.)~~

**(57) Moclips River (Grays Harbor County):**

(a) From the mouth to the Quinault Indian Reservation boundary.

(b) Open the Saturday before Memorial Day through the last day in February.

(c) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(d) It is permissible to retain steelhead with a dorsal fin height of less than 2 1/8 inches or with an adipose or ventral fin clip.

(e) Salmon: Open October 1 through ~~(December 31)~~ November 30.

(i) Daily limit 6, of which ~~(2)~~ one may be an adult~~(s)~~.

~~(ii) Only one wild adult coho may be retained.~~

~~(iii) Release adult Chinook.~~

**(58) Morse Creek (Clallam County):** From the mouth to Port Angeles Dam:

(a) Open from December 1 through January 31.

(b) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

**(59) Mosquito Creek (Jefferson County):** From outside Olympic National Park upstream to the Goodman 3000 Mainline Bridge:

(a) Open the Saturday before Memorial Day through the last day in February.

(b) Selective gear rules.

(c) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

**(60) Naselle River (Pacific/Wahkiakum counties):**

(a) From the Highway 101 Bridge to the ~~(Highway 401 Bridge)~~ South Fork:

(i) From August 1 through November 15:

(A) Night closure.

(B) Anti-snagging rule.

(C) Barbless hooks are required.

(ii) Anglers may fish with two poles August 1 through January 31, provided they possess a valid two-pole endorsement.

(iii) Open the Saturday before Memorial Day through April 15.

(iv) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(v) Salmon: ~~(A)~~ Open August 1 through ~~(October)~~ January 31:

~~(A) Limit 6; only 4 adults may be retained, of which only one may be a wild adult coho.~~

~~(B) Release wild Chinook.~~

~~(C) Open November 1 through January 31:~~

~~(D) Limit 6; only 4 adults may be retained and only two adults may be wild coho.~~

~~(E) Release wild Chinook.~~

~~(F) From the Highway 401 Bridge to the upstream entrance of the Naselle Hatchery Attraction Channel:~~

~~(G) From the confluence of the South Fork to the Highway 4 Bridge:~~

~~(H) From February 1 through April 15: Selective gear rules.~~

~~(I) From August 1 through November 15:~~

~~(A) Night closure.~~

- (B) Anti-snagging rule.
- (C) Barbless hooks are required.
- (D) Stationary gear restriction.
- (iii) Open the Saturday before Memorial Day through April 15.
- (iv) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.
- (v) Salmon:
- (A) Open August 1 through September 30.
- (I) Limit 6; only 2 adults may be retained, of which only one may be a wild adult coho.
- (II) Release wild Chinook.
- (B) Open October 1 through January 31.
- (I) Limit 6; only 4 adults may be retained, of which only one may be a wild adult coho.
- (II) Release wild Chinook.
- (c) From the Highway 4 Bridge to the upstream entrance of the Naselle Hatchery Attraction Channel:
- (i) It is unlawful to fish from a floating device equipped with an internal combustion motor.
- (ii) From February 1 through April 15: Selective gear rules.
- (iii) From August 16 through October 15: Bait or lure must be suspended below a float.
- (iv) From August 16 through November 15:
- (A) Night closure.
- (B) Anti-snagging rule.
- (C) Barbless hooks are required.
- (D) Stationary gear restrictions.
- (v) Open the Saturday before Memorial Day through July 31 and August 16 through April 15.
- (vi) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.
- (vii) Salmon:
- (A) Open August 16 through September 30.
- (I) Limit 6; only 2 adults may be retained, of which only one may be a wild adult coho.
- (II) Release wild Chinook.
- (B) Open October 1 through January 31.
- (I) Limit 6; only 4 adults may be retained, of which only one may be a wild adult coho.
- (II) Release wild Chinook.
- (viii) From the upstream entrance of the hatchery attraction channel downstream 300 feet: Closed waters.
- ((iii)) It is unlawful to fish from a floating device equipped with an internal combustion motor.
- ((iii)) From February 1 through April 15: Selective gear rules.
- ((iv)) From August 16 through October 15: Bait or lure must be suspended below a float.
- ((v)) From August 16 through November 15:
- (A) Night closure.
- (B) Anti-snagging rule.
- (C) Barbless hooks are required.
- (D) Stationary gear rules.
- ((vi)) Open the Saturday before Memorial Day through July 31 and September 16 through April 15.
- (vii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.
- (viii) Salmon:
- (A) Open August 16 through September 15.
- (I) Limit 6; only 2 adults may be retained.
- (II) Release wild Chinook.
- (B) Open September 16 through October 31.
- (I) Limit 6; only 4 adults may be retained.
- (II) Release wild Chinook.
- (C) Open November 1 through January 31.
- (I) Limit 6; only 4 adults may be retained and only two may be wild coho.
- (II) Release wild Chinook.
- ((e))) (d) From the upstream entrance of the Naselle Hatchery Attraction Channel to the Crown Mainline (Salme) Bridge:
- (i) From the falls in Sec. 6, T10N, R8W (Wahkiakum Co.) downstream 400 feet: Closed waters.
- (ii) Downstream of the full spanning concrete diversion structure at the Naselle Hatchery: Closed waters August 1 through October 15.
- (iii) It is unlawful to fish from a floating device equipped with an internal combustion motor.
- (iv) From August 1 through November 15:
- (A) Night closure.
- (B) Anti-snagging rule.
- (C) Barbless hooks are required.
- (D) Stationary gear rules.
- (v) Open the Saturday before Memorial Day through April 15.
- (vi) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.
- (vii) Salmon: ((A)) Open October 16 through ((October 31)) January 31.
- ((A)) (A) Limit 6; only 4 adults may be retained, of which one may be a wild adult coho.
- ((A)) (B) Release wild Chinook.
- ((B)) Open November 1 through January 31.
- ((I)) Limit 6; only 4 adults may be retained and only two may be wild coho.
- ((II)) Release wild Chinook.
- ((e))) (e) From the Crown Mainline (Salme) Bridge to the mouth of the North Fork:
- (i) From February 1 through April 15; selective gear rules.
- (ii) Open the Saturday before Memorial Day through April 15.
- (iii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.
- (iv) From August 16 through November 30:
- (A) Night closure.
- (B) Anti-snagging rule.
- ((e))) (f) Upstream from the mouth of the North Fork.
- (i) Selective gear rules.
- (ii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

**(61) ((South)) Naselle River, South (Pacific County):**

(a) From the mouth to Bean Creek: Open the Saturday before Memorial Day through the last day in February.

(b) From the Saturday before Memorial Day through August 15: Selective gear rules.

(c) From August 16 through November 30: Anti-snagging rule and night closure.

(d) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

**(62) Nemah River, Middle (Pacific County):**

(a) From the mouth upstream to the department of natural resources bridge on the Middle Nemah A-Line Road:

(i) Open the Saturday before Memorial Day through March 31.

(ii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(iii) From August 1 through November 30:

(A) Night closure.

(B) Single-point barbless hooks are required.

(iv) Salmon:

(A) Open September 1 through January 31.

(B) Limit 6; no more than 4 adults may be retained, of which one may be a wild adult coho.

(C) Release wild Chinook.

(b) From the department of natural resources bridge on the Middle Nemah A-Line Road upstream:

(i) Open the Saturday before Memorial Day through March 31;

(ii) Selective gear rules.

(iii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(iv) From August 16 through November 30:

(A) Anti-snagging rule.

(B) Night closure.

**(63) Nemah River, North (Pacific County):**

(a) From Highway 101 Bridge upstream to the bridge on Nemah Valley Road:

(i) Open the Saturday before Memorial Day through March 31.

(ii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(iii) From August 1 through November 30:

(A) Night closure.

(B) Stationary gear restriction.

(C) Single-point barbless hooks are required.

(iv) Salmon: Open August 1 through January 31.

(A) Limit 6; only 4 adults may be retained, of which one may be a wild adult coho.

(B) Release wild Chinook.

(b) From the bridge on Nemah Valley Road upstream to approximately 1.66 miles to the Hancock property line:

(i) Open the Saturday before Memorial Day through July 31 and November 16 through March 31.

(ii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(iii) From August 16 through November 30:

(A) Anti-snagging rule.

(B) Night closure.

(iv) From December 1 through March 31: Selective gear rules.

(c) From the Hancock property line upstream to the temporary weir (approximately 210 feet above the Nemah Hatchery Bridge):

(i) Open only for salmon for anglers that possess a senior's license from August 1 through September 15.

(ii) Open the Saturday before Memorial Day through July 31 and November 16 through March 31.

(iii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(iv) From August 16 through November 30:

(A) Anti-snagging rule.

(B) Night closure.

(v) From December 1 through March 31: Selective gear rules.

(A) Limit 6; only 4 adults may be retained, of which only one may be a wild coho.

(B) Release wild Chinook.

(d) From the temporary weir (approximately 210 feet above the Nemah Hatchery Bridge) upstream to the Nemah Hatchery Dam: Closed waters.

(e) From the Nemah Hatchery Dam upstream to N-700 Road:

(i) Open the Saturday before Memorial Day through March 31.

(ii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(iii) From August 16 through November 30:

(A) Night closure.

(B) Anti-snagging rule.

(iv) From December 1 through March 31: Selective gear rules.

(v) Salmon: Open October 1 through January 31:

(A) Limit 6; only 4 adults may be retained, of which one may be a wild adult coho.

(B) Release wild Chinook.

(f) From the N-700 Road to Cruiser Creek:

(i) Open the Saturday before Memorial Day through March 31.

(ii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(iii) From August 16 through November 30:

(A) Night closure.

(B) Anti-snagging rule.

(iv) From December 1 through March 31: Selective gear rules.

**(64) Nemah River, South (Pacific County):**

(a) From September 1 through November 30:

(i) Night closure.

(ii) Single-point barbless hooks are required.

(b) Open the Saturday before Memorial Day through March 31:

(c) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(d) Salmon: Open September 1 through January 31.

(i) Limit 6; only 4 adults may be retained, of which one may be a wild adult coho.

(ii) Release wild Chinook.

(65) Newaukum River, including South Fork (Lewis County):

(a) From the mouth to Leonard Road near Onalaska:

(i) Open the Saturday before Memorial Day through March 31:

(ii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(iii) From August 16 through November 30:

(A) Night closure.

(B) Single-point barbless hooks are required.

(iv) Salmon: Open October 16 through ((December 31))

November 30:

(A) Limit 6; only ((two)) 2 adults may be retained.

(B) ((Only one wild coho may be retained.

((C))) Release adult Chinook and ((chum)) wild adult coho.

(b) From Leonard Road near Onalaska to Highway 508 Bridge near Kearny Creek:

(i) Open the Saturday before Memorial Day through March 31:

(ii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(iii) From August 16 through November 30:

(A) Night closure.

(B) Single-point barbless hooks are required.

((63))) (66) Newaukum River, Middle Fork (Lewis County), from the mouth to Tauscher Road Bridge:

(a) Open the Saturday before Memorial Day through March 31.

(b) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

((64))) (67) Newaukum River, North Fork (Lewis County), from the mouth to 400 feet below the Chehalis city water intake:

(a) Open the Saturday before Memorial Day through March 31.

(b) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

((65))) (68) Niawiakum River (Pacific County): From Highway 101 Bridge to the South Bend/Palix Road Bridge:

(a) From August 16 through November 30:

(i) Night closure.

(ii) Single-point barbless hooks are required.

(b) Open the Saturday before Memorial Day through November 30.

((e)) Salmon:

(i) Open September 1 through November 30.

(ii) Limit 6; only 2 adults may be retained.

(iii) Release wild Chinook.

(66) North Nemah River (Pacific County):

(a) From Highway 101 Bridge upstream to the bridge on Nemah Valley Road:

(i) Open the Saturday before Memorial Day through March 31.

(ii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(iii) From August 1 through November 30:

(A) Night closure.

(B) Stationary gear restriction.

(C) Single-point barbless hooks are required.

(iv) Salmon: Open August 1 through January 31.

(A) Limit 6; only 4 adults may be retained.

(B) Release wild Chinook.

(b) From the bridge on Nemah Valley Road upstream to approximately 1.66 miles to the Hanecock property line:

(i) Open the Saturday before Memorial Day through July 31 and November 16 through March 31.

(ii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(iii) From August 16 through November 30:

(A) Anti-snagging rule.

(B) Night closure.

(iv) From December 1 through March 31: Selective gear rules.

(e) From the Hanecock property line upstream approximately 900 feet to Nemah Hatchery barrier dam:

(i) Closed from bridge at Nemah Hatchery upstream to Nemah Hatchery barrier dam, except open only for salmon for anglers that possess a senior's license from August 16 through November 15.

(ii) Open the Saturday before Memorial Day through July 31 and November 16 through March 31.

(iii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(iv) From August 16 through November 30:

(A) Anti-snagging rule.

(B) Night closure.

(v) From December 1 through March 31: Selective gear rules.

((vi) Salmon open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card from August 16 through November 15.

(A) Limit 6; only 4 adults may be retained.

(B) Release wild Chinook.

(d) From the Nemah Hatchery barrier dam upstream to Cruiser Creek:

(i) Open the Saturday before Memorial Day through March 31.

(ii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(iii) From August 16 through November 30:

(A) Night closure.

(B) Anti-snagging rule.

(iv) From December 1 through March 31: Selective gear rules.

~~((v)) Salmon: Open October 1 through January 31:~~

- ~~(A) Limit 6; only 4 adults may be retained.~~
- ~~(B) Release wild Chinook.~~

~~((67)) (69) North River (Grays Harbor/Pacific counties):~~

~~(a) From the Highway 105 Bridge to Fall River:~~

- ~~(i) From August 16 through November 30:~~

- ~~(A) Night closure.~~

- ~~(B) Single-point barbless hooks are required.~~

- ~~(C) Anti-snagging rule.~~

~~(ii) Open the Saturday before Memorial Day through the last day in February.~~

~~(iii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.~~

~~(iv) Salmon: Open October 1 through January 31.~~

~~(A) Limit 6; only 4 adults may be retained, of which only one may be a wild adult coho.~~

- ~~(B) Release wild Chinook.~~

- ~~(b) From Fall River to Raimie Creek:~~

- ~~(i) Selective gear rules.~~

~~(ii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.~~

~~((68)) (70) Ozette Lake tributaries and their tributaries except Big River (Clallam County): Outside of Olympic National Park. Open the Saturday before Memorial Day through October 15.~~

~~((69)) (71) Palix River, including all forks (Pacific County):~~

~~(a) From the Highway 101 Bridge to the mouth of the Middle Fork:~~

- ~~(i) From August 16 through November 30:~~

- ~~(A) Night closure.~~

- ~~(B) Single-point barbless hooks are required.~~

~~(ii) Open the Saturday before Memorial Day through March 31.~~

~~(iii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.~~

~~((iv)) Salmon:~~

~~(A) Open September 1 through January 31.~~

~~(B) Limit 6; only 4 adults may be retained.~~

~~(C) Release wild Chinook.)~~

~~(b) From the confluence with the Middle Fork upstream and all forks, including South Fork Palix and Canon rivers:~~

- ~~(i) From August 16 through October 15:~~

- ~~(A) Anti-snagging rule.~~

- ~~(B) Night closure.~~

~~(ii) From the Saturday before Memorial Day through August 15, and from December 16 through March 31: Selective gear rules.~~

~~(iii) Open the Saturday before Memorial Day through October 15, and from December 16 through March 31.~~

~~(iv) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.~~

~~((70)) (72) Peabody Creek (Clallam County): Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.~~

~~((71)) (73) Pleasant Lake (Clallam County):~~

~~(a) Game fish: Statewide minimum length/daily limit, except:~~

~~(b) Kokanee: Daily limit 5; minimum length 8 inches, maximum length 18 inches.~~

~~((72)) (74) Pysht River (Clallam County):~~

~~(a) Open the Saturday before Memorial Day through January 31.~~

~~(b) Selective gear rules.~~

~~(c) From the Saturday before Memorial Day through October 31.~~

~~(i) Game fish: Statewide minimum length/daily limit, except:~~

~~(ii) Release cutthroat trout and wild rainbow trout.~~

~~(d) From November 1 through January 31:~~

~~(i) Game fish: Statewide minimum length/daily limit, except:~~

~~(ii) Cutthroat trout and wild rainbow trout: Minimum length 14 inches.~~

~~((73)) (75) Quigg Lake (Grays Harbor County):~~

~~(a) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.~~

~~(b) Salmon:~~

~~(i) Open October 1 through January 31.~~

~~(ii) Limit 6 hatchery coho salmon; only 4 may be adult hatchery coho.~~

~~((74)) (76) Quillayute River (Clallam County), outside of Olympic National Park:~~

~~(a) Open year-round.~~

~~(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.~~

~~(c) It is unlawful to use anything other than one barbless hook.~~

~~(i) Game fish: Statewide minimum length/daily limit, except:~~

~~(A) Release wild rainbow trout.~~

~~(B) Cutthroat trout: Minimum length 14 inches.~~

~~(ii) From November 1 through the last day in February: Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.~~

~~(d) Salmon:~~

~~(i) From February 1 through August 31:~~

~~(A) Limit 6; only 2 adults may be retained, of which only one may be a sockeye.~~

~~(B) Release wild adult Chinook and wild adult coho.~~

~~(ii) From September 1 through November 30:~~

~~(A) Limit 6; only ((3)) 2 adults may be retained, ((and only one of the adults may be wild.~~

~~((75)) of which only one may be a Chinook and only one may be a sockeye.~~

~~(B) Release wild adult coho.~~

~~((77)) Quinault River (Grays Harbor County): From the mouth at the upper end of Quinault Lake upstream to the Olympic National Park boundary:~~

~~(a) Open the Saturday before Memorial Day through April 15.~~

~~(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.~~

(c) It is unlawful to use anything other than one barbless hook.

(d) It is unlawful to use bait the Saturday before Memorial Day through September 30 and February 16 through April 15.

(e) Game fish: Statewide minimum length/daily limit, except:

(i) Release wild rainbow trout.

(ii) Cutthroat trout: Minimum length 14 inches.

(f) It is permissible to retain steelhead with a dorsal fin height of less than 2 1/8 inches or with an adipose or ventral fin clip.

(g) Salmon:

(i) Open July 1 through September 30 limit 6 jack salmon only.

(ii) Open October 1 through November 30:

(A) Limit 6; only 2 adults may be retained.

(B) Release sockeye and chum.

((76)) (78) **Rocky Brook (Jefferson County)**  
**(Dosewallips River tributary):** From the mouth upstream: Closed waters.

((77)) (79) **Salmon Creek (Pacific County) (tributary of Naselle River):**

(a) Open the Saturday before Memorial Day through the last day in February.

(b) Selective gear rules.

(c) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

((78)) (80) **Salmon River (Jefferson County), outside Olympic National Park and the Quinault Indian Reservation:**

(a) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(b) It is unlawful to use anything other than one barbless hook.

(c) It is unlawful to use bait the Saturday before Memorial Day through August 31.

(d) Open the Saturday before Memorial Day through September 30 and December 1 through the last day in February.

(e) Game fish: Statewide minimum length/daily limit, except:

(i) Release wild rainbow trout.

(ii) Cutthroat trout: Minimum length 14 inches.

(iii) From Saturday before Memorial Day through September 30: It is permissible to retain steelhead with a dorsal fin height of less than 2 1/8 inches or with an adipose or ventral fin clip.

(iv) From ((November)) December 1 through the last day in February: Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

(f) Salmon: Open September 1 through September 30:

(i) Limit 6; only 2 may be adults and only one of the adults may be a Chinook.

(ii) Release wild coho.

((79)) (81) **Salt Creek (Clallam County):** From the mouth to the bridge on Highway 112:

(a) ((Open the Saturday before Memorial Day through January 31.

((b))) Selective gear rules.

((e))) (b) From the Saturday before Memorial Day through January 31:

(i) Game fish: Statewide minimum length/daily limit, except:

(ii) Release cutthroat trout and wild rainbow trout.

((80)) (82) **Satsop River and East Fork (Grays Harbor County):**

(a) From the mouth to the bridge at Schafer State Park:

(i) From August 16 through November 30:

(A) Night closure.

(B) Single-point barbless hooks are required.

(ii) Open the Saturday before Memorial Day through March 31:

(A) Game fish: Statewide minimum length/daily limit, except:

(B) Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(iii) Salmon: ((A)) Open October 1 through ((December 31)) November 30:

((I)) (A) Limit 6; only ((two)) 2 adults may be retained.

((II)) Only one wild coho may be retained.

((III)) Release Chinook.

(B) Open January 1 through January 31.

(I) Limit 6; only two adults may be retained.

((II)) (B) Release adult Chinook and wild adult coho.

(b) From the bridge at Schafer State Park upstream to 400 feet below Bingham Creek Hatchery barrier dam:

(i) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(ii) From August 16 through October 31:

(A) Night closure.

(B) Single-point barbless hooks are required.

(c) From 400 feet downstream of the Bingham Creek Hatchery barrier dam upstream to the dam:

(i) Open within posted markers to anglers with disabilities who permanently use a wheelchair and possess a designated harvester companion card.

(ii) Night closure.

(iii) From August 16 through ((October 31)) November 30: Single-point barbless hooks are required.

(iv) Open the Saturday before Memorial Day through March 31:

(A) Game fish: Statewide minimum length/daily limit, except:

(B) Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(v) Salmon: ((A)) Open October 1 through ((December 31)) November 30:

((I)) (A) Limit 6; only ((two)) 2 adults may be retained.

((II)) Only one wild coho may be retained.

((III)) Release Chinook.

(B) Open January 1 through January 31.

(I) Limit 6; only two adults may be retained.

((II)) (B) Release adult Chinook and wild adult coho.

((81)) (83) **Satsop River, Middle Fork (Turnow Branch) (Grays Harbor County):**

(a) From August 16 through November 30:

(i) Anti-snagging rule.

(ii) Night closure.

(b) Open the Saturday before Memorial Day through the last day in February:

(i) Game fish: Statewide minimum length/daily limit, except:

(ii) Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

**((82)) (84) Satsop River, West Fork (Grays Harbor County):**

(a) From August 16 through November 30:

(i) Anti-snagging rule.

(ii) Night closure.

(b) Open the Saturday before Memorial Day through the last day in February:

(i) Game fish: Statewide minimum length/daily limit, except:

(ii) Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

**((83)) (85) Sekiu River (Clallam County): From mouth to forks:**

(a) Open the Saturday before Memorial Day through January 31.

(b) ((From the Saturday before Memorial Day through October 31:)) Selective gear rules.

(c) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

**((84)) (86) Siebert Creek (Clallam County):**

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

**((85)) (87) Sitkum River (Clallam County) (Cala-wah River tributary):**

(a) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(b) It is unlawful to use anything other than one barbless hook.

(c) It is unlawful to use bait.

(d) Game fish: Statewide minimum length/daily limit, except:

(i) Release wild rainbow trout.

(ii) Cutthroat trout: Minimum length 14 inches.

**((86)) (88) Skookumchuck River (Thurston County):** From the mouth to 100 feet below the outlet of the TransAlta/WDFW steelhead rearing pond located at the base of the Skookumchuck Dam:

(a) From August 16 through November 30:

(i) Night closure.

(ii) Single-point barbless hooks are required.

(b) Open the Saturday before Memorial Day through April 30:

(i) Game fish: Statewide minimum length/daily limit, except:

(ii) Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(c) Salmon: Open October 16 through ((December 31)) November 30:

(i) Limit 6; only ((two)) 2 adults may be retained.

(ii) ((Only one wild coho may be retained.

((iii))) Release adult Chinook and ((ehum)) wild adult coho.

**((87)) (89) Smith Creek (near North River) (Pacific County):**

(a) From the mouth to the Highway 101 Bridge:

(i) From August 16 through November 30:

(A) Night closure.

(B) Single-point barbless hooks are required.

(ii) Open the Saturday before Memorial Day through the last day in February.

(iii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(iv) Salmon: Open October 1 through December 31:

(A) Limit 6; only 3 adults may be retained, of which one may be a wild adult coho.

(B) Release wild Chinook.

(b) From the Highway 101 Bridge upstream:

(i) Selective gear rules.

(ii) Open the Saturday before Memorial Day through the last day in February.

(iii) Game fish: Statewide minimum length/daily limit, except:

(iv) Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

**((88)) (90) Snahapish River (Jefferson County) (Clearwater River tributary):**

(a) Open the Saturday before Memorial Day through September 30.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) It is unlawful to use anything other than one barbless hook.

(d) It is unlawful to use bait.

(e) Game fish: Statewide minimum length/daily limit, except:

(i) Release wild rainbow trout.

(ii) Cutthroat trout: Minimum length 14 inches.

**((89)) (91) Snow Creek and all tributaries (Jefferson County):** Closed waters.

**((90)) (92) Sol Duc River (Clallam County):**

(a) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(b) It is unlawful to use anything other than one barbless hook.

(c) From the mouth to the concrete pump station at the Sol Duc Hatchery:

(i) It is unlawful to use bait July ((1)) 16 through August 31 and February 16 through April 30.

(ii) Game fish: Open year-round: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

(iii) ((November 1 through the last day in February: Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.))

((iv))) Salmon:

(A) From February 1 through August 31:

(I) Limit 6; only 2 adults may be retained, of which only one may be a sockeye.

(II) Release wild adult Chinook and wild adult coho.

(B) From September 1 through November 30:

((E)) (I) Limit 6; only 3 ((may be)) adults ((and only one adult may be wild)) may be retained, of which only one may be a Chinook and only one may be a sockeye.

(II) Release wild adult coho.

(d) From the concrete pump station at Sol Duc Hatchery to the Highway 101 Bridge upstream of Klahowya Campground:

(i) Open the Saturday before Memorial Day through April 30.

(ii) It is unlawful to use bait.

(iii) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

(e) From the Highway 101 Bridge upstream of Klahowya Campground to the Olympic National Park boundary:

(i) It is unlawful to use bait.

(ii) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

((94)) (93) **Sol Duc River tributaries unless otherwise listed (Clallam County):**

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

((92)) (94) **Solleks River (Jefferson County) (Clear-water River tributary):**

(a) Open the Saturday before Memorial Day through September 30.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) It is unlawful to use anything other than one barbless hook.

(d) It is unlawful to use bait.

(e) Game fish: Statewide minimum length/daily limit, except:

(i) Release wild rainbow trout.

(ii) Cutthroat trout: Minimum length 14 inches.

((93)) (95) **Sooes River (Tsoo-Yess River) (Clallam County), outside of Makah Indian Reservation:** Open the Saturday before Memorial Day through the last day in February.

((94)) (96) **South Bend Mill Pond (Pacific County):**

Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

((95)) **South Nemah River (Pacific County):**

(a) From September 1 through November 30:

(i) Night closure.

(ii) Single point barbless hooks are required.

(b) Open the Saturday before Memorial Day through March 31:

(e) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(d) Salmon: Open September 1 through January 31.

(i) Limit 6; only 4 adults may be retained.

(ii) Release wild Chinook.

((96)) (97) **Stevens Creek (Grays Harbor County):**

From the mouth to the Highway 101 Bridge:

(a) From the WDFW hatchery outlet downstream to the cable crossing: Closed waters.

(b) Open the Saturday before Memorial Day through September 30 and December 1 through the last day in February.

(c) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

((97)) (98) **Sutherland Lake (Clallam County):**

(a) Open the fourth Saturday in April through October 31.

(b) Game fish: Statewide minimum length/daily limit, except: Kokanee: Daily limit 5; minimum length 8 inches and maximum length 18 inches.

((98)) (99) **Thrash Creek (Pacific/Lewis County):** Closed waters.

((99)) (100) **Thunder Creek (Clallam County) (Tributary to East Fork Dickey River):**

(a) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(b) It is unlawful to use anything other than one barbless hook.

(c) It is unlawful to use bait.

(d) Game fish: Statewide minimum length/daily limit, except:

(i) Release wild rainbow trout.

(ii) Cutthroat trout: Minimum length 14 inches.

(e) From mouth to D2400 Road: Open the Saturday before Memorial Day through April 30.

(f) From D2400 Road upstream: Open the Saturday before Memorial Day through October 31.

((100)) (101) **Valley Creek (Clallam County):** Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

((101)) (102) **Vance Creek/Elma Ponds (Grays Harbor County), Pond One (Bowers Lake) and Pond Two (Lake Ines):** Pond One/Bowers Lake is open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

((102)) (103) **Van Winkle Creek (Grays Harbor County):**

(a) From August 16 through November 30:

(i) Night closure.

(ii) Anti-snagging rule.

(b) From the mouth to 400 feet below the outlet of Lake Aberdeen Hatchery:

(i) Open the Saturday before Memorial Day through January 31.

(ii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(iii) Salmon: ((A)) Open ((September 16)) October 1 through ((December 31)) November 30:

((H)) (A) Limit 6; only ((two)) 2 adults may be retained.

((H)) Only one wild adult coho may be retained.

((H)) (B) Release adult Chinook and wild adult coho.

((B)) Open January 1 through January 31.

(i) Limit 6; only two adults may be retained.

(ii) Release Chinook and wild coho.

((103)) (104) **West Twin River (Clallam County):**

(a) Selective gear rules.

(b) Release all fish.

**((+04)) (105) Willapa River (Pacific County):**

(a) From the mouth (city of South Bend boat launch) to the Highway 6 Bridge approximately 2 miles below the mouth of Trap Creek:

(i) From August 1 through November 30:

(A) It is unlawful to fish from a floating device from the second bridge on Camp One Road upstream to the mouth of Mill Creek (approximately 0.5 miles).

(B) Night closure.

(C) Single-point barbless hooks are required.

(D) Stationary gear restriction applies, except from the mouth of the Willapa River to the WDFW access site at the mouth of Ward/Wilson creeks.

(ii) From the City of South Bend boat launch upstream to the second bridge on Camp One Road: Anglers may fish with two poles August 1 through January 31, provided they possess a valid two-pole endorsement.

(iii) Open the Saturday before Memorial Day through March 31.

(iv) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(v) Salmon: Open August 1 through January 31:

(A) Limit 6; only 4 adults may be retained, of which one may be a wild adult coho.

(B) Release wild Chinook.

(b) From Highway 6 Bridge to Fork Creek:

(i) From August 16 through November 30:

(A) Night closure.

(B) Single-point barbless hooks are required.

(C) Stationary gear restriction.

(ii) Open the Saturday before Memorial Day through ((August 15 and from September 16 through)) March 31:

(iii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(iv) Salmon: Open August 16 through September 15:

(A) Limit 6; only 2 adults may be retained, of which one may be a wild adult coho.

(B) Release wild Chinook.

(v) Salmon: Open September 16 through January 31:

(A) Limit 6; only 4 adults may be retained, of which one may be a wild adult coho.

(B) Release wild Chinook.

(c) From Fork Creek upstream to the Highway 6 Bridge near the town of Lebam:

(i) From August 16 through October 31:

(A) Night closure.

(B) Single-point barbless hooks are required.

(C) Stationary gear restriction.

(ii) Open the Saturday before Memorial Day through March 31:

(iii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(iv) Salmon: Open October 1 through January 31:

(A) Limit 6; only 4 adults may be retained ((and only two)), of which only one may be a wild adult coho.

(B) Release wild Chinook.

(d) From the Highway 6 Bridge near the town of Lebam upstream:

(i) From August 16 through October 31:

(A) Night closure.

(B) Single-point barbless hooks are required.

(ii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

**((+05)) (106) Willapa River, South Fork (Pacific County):**

(a) From the mouth to the bridge on Pehl Road:

(i) From the falls/fish ladder downstream 400 feet in Section 6, Township 13 North, and Range 8 West: Closed waters.

(ii) From the Saturday before Memorial Day through July 31: Selective gear rules.

(iii) From August 1 through November 30:

(A) Night closure.

(B) Anti-snagging rule.

(C) Barbless hooks are required.

(b) Open the Saturday before Memorial Day through the last day in February:

(i) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(ii) Salmon: Open August 1 through January 31:

(A) Limit 6; only 3 adults may be retained, of which one may be a wild adult coho.

(B) Release wild Chinook.

(c) From Pehl Road upstream:

(i) Open the Saturday before Memorial Day through the last day in February.

(ii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

**((+06)) (107) Wishkah River (Grays Harbor County):**

(a) From August 16 through November 30: Single-point barbless hooks are required.

(b) From the mouth to 200 feet below the weir at the Wishkah Rearing Ponds:

(i) Open the Saturday before Memorial Day through the last day in February.

(ii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(iii) Salmon: Open October 1 through ((December 31)) November 30:

(A) Limit 6; only ((two)) 2 adults may be retained.

(B) ((Only one wild adult coho may be retained.

((C))) Release adult Chinook and wild adult coho.

(iv) From 150 feet upstream to 150 feet downstream of the Wishkah adult attraction channel/outfall structure (within the posted fishing boundary): Open only to anglers with disabilities who permanently use a wheelchair and have a designated harvester companion card.

**((+07)) (108) Wynoochee River (Grays Harbor County):**

(a) From the mouth to the WDFW White Bridge Access Site:

(i) From August 16 through November 30: Single-point barbless hooks are required.

(ii) Open the Saturday before Memorial Day through March 31:

(iii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(iv) Salmon: Open October 1 through ((December 31)) November 30.

(A) Limit 6; only ((two)) 2 adults may be retained.

(B) ((Only one wild adult coho may be retained.))

((C)) Release adult Chinook and wild adult coho.

(b) From the WDFW White Bridge Access Site to the 7400 line bridge:

(i) From August 16 through November 30: Single-point barbless hooks are required.

(ii) From September 16 through November 30: It is unlawful to use bait.

(iii) Open the Saturday before Memorial Day through March 31:

(iv) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(c) From the 7400 line bridge to 400 feet below Wynoochee Dam, including the confluence of the reservoir upstream to Wynoochee Falls:

(i) From 400 feet downstream of Wynoochee Dam and from the barrier dam near Grisdale: Closed waters.

(ii) Open the Saturday before Memorial Day through March 31:

(iii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(iv) Selective gear rules.

((108)) (109) **Wynoochee Reservoir (Grays Harbor County):**

(a) Open the fourth Saturday in April through October 31.

(b) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2; minimum length 14 inches.

**AMENDATORY SECTION** (Amending WSR 18-06-045, filed 3/1/18, effective 4/1/18)

**WAC 220-312-030 Freshwater exceptions to statewide rules—Southwest.** (1) **Abernathy Creek and tributaries (Cowlitz County):**

(a) From 200 feet above Abernathy Falls to posted markers 500 feet downstream from the Abernathy Fish Technology Center: Closed waters.

(b) Open the Saturday before Memorial Day through August 31 and November 1 through March 15.

(c) Selective gear rules.

(d) Game fish: Statewide minimum length/daily limit, except:

(i) Trout: Daily limit 2; minimum length 14 inches.

(ii) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

(e) Salmon:

(i) Open November 1 through December 31.

(ii) Limit 6; up to 2 may be adults.

(iii) Only hatchery Chinook and hatchery coho may be retained.

(2) **Beaver Creek (Wahkiakum County):** Closed waters.

(3) **Blue Creek (Lewis County), from the mouth to Spencer Road:**

(a) From posted sign above rearing pond outlet to Spencer Road: Closed waters.

(b) Anti-snagging rule. ((When the anti-snagging rule is in effect, only fish hooked inside the mouth may be retained.))

(c) Night closure.

(d) Barbless hooks are required for salmon and steelhead.

(e) Open Saturday before Memorial Day through April 15.

(f) Game fish: Statewide minimum length/daily limit, except:

(i) Trout: Daily limit 5; minimum length 8 inches.

(ii) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

(g) Salmon:

(i) Open August 1 through December 31.

(ii) Limit 6; up to 2 may be adults.

(iii) Only hatchery Chinook and hatchery coho may be retained.

(4) **Blue Lake (Cowlitz County):**

(a) Open the fourth Saturday in April through October 31.

(b) Selective gear rules.

(c) Release all fish.

(5) **Blue Lake Creek (Lewis County):** Selective gear rules.

(6) **Butter Creek (Lewis County):** Selective gear rules.

(7) **Canyon Creek (Clark County):** Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 5.

(8) **Carlisle Lake (Lewis County):**

(a) Open the fourth Saturday in April through October 31.

(b) Landlocked salmon rules.

(9) **Cedar Creek and tributaries (tributary of N.F. Lewis) (Clark County):**

(a) From the Grist Mill Bridge to 100 feet upstream of the falls: Closed waters.

(b) Selective gear rules.

(c) Open the Saturday before Memorial Day through August 31 and November 1 through March 15.

(d) Game fish: Statewide minimum length/daily limit, except:

(i) Trout: Daily limit 2; minimum length 14 inches.

(ii) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

(e) Salmon:

(i) Open November 1 through December 31.

(ii) Limit 6; up to 2 may be adults.

(iii) Only hatchery Chinook and hatchery coho may be retained.

(10) **Chinook River (Pacific County):** From the Highway 101 Bridge upstream:

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

(11) **Cispus River (Lewis County):** From the mouth to the falls, not including the North Fork:

(a) Open year-round, except closed to all angling within posted "Closed Waters" signs around the adult fish release site.

(b) Barbless hooks are required for salmon and steelhead.

(c) Game fish: Statewide minimum length/daily limit, except: Release wild rainbow and wild cutthroat trout.

(d) Salmon:

(i) Limit 6; up to 2 may be adults.

(ii) Only hatchery Chinook and hatchery coho may be retained.

(12) **Cispus River, North Fork (Lewis County):** Selective gear rules.

(13) **Coal Creek (Cowlitz County):**

(a) From the mouth to 400 feet below the falls:

(i) Open the Saturday before Memorial Day through August 31 and November 1 through March 15.

(ii) Selective gear rules.

(iii) Game fish: Statewide minimum length/daily limit, except:

(A) Trout: Daily limit 2; minimum length 14 inches.

(B) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

(iv) Salmon:

(A) Open November 1 through December 31.

(B) Limit 6; up to 2 may be adults.

(C) Only hatchery Chinook and hatchery coho may be retained.

(b) From 400 feet below the falls to the falls: Closed waters.

(14) **Coldwater Lake (Cowlitz County):**

(a) The Coldwater Lake inlet and outlet streams: Closed waters.

(b) Selective gear rules.

(c) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.

(15) **Cougar Creek (tributary to Yale Reservoir (Cowlitz County):**

(a) Selective gear rules.

(b) Open the Saturday before Memorial Day through August 31.

(16) **Coweeman River and tributaries (Cowlitz County):**

(a) Barbless hooks are required for salmon and steelhead.

(b) Open the Saturday before Memorial Day through August 31 and November 1 through March 15.

(c) Game fish: Statewide minimum length/daily limit, except:

(i) Trout: Daily limit 2; minimum length 14 inches.

(ii) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

(d) Salmon:

(i) Open November 1 through December 31.

(ii) Limit 6; up to 2 may be adults.

(iii) Only hatchery Chinook and hatchery coho may be retained.

(17) **Cowlitz Falls Reservoir (Lake Scanewa) (Lewis County):**

(a) The upstream boundary of the reservoir in the Cowlitz arm is at the posted Lewis County PUD sign on Peters Road.

(b) The upstream boundary of the reservoir in the Cispus arm is at the posted markers at the Lewis County PUD kayak launch, approximately 1.5 miles upstream from the confluence of the Cowlitz and Cispus arm.

(c) Barbless hooks are required for salmon and steelhead.

(d) Game fish: Statewide minimum length/daily limit, except: Trout:

(i) Release wild rainbow and wild cutthroat trout.

(ii) Daily limit 10; minimum length 8 inches.

(e) Salmon:

(i) Daily limit 6; minimum length 12 inches.

(ii) Up to 2 may be adults.

(iii) Only hatchery Chinook and hatchery coho may be retained.

(18) **Cowlitz River (Lewis County):**

(a) From the boundary markers at the mouth to Mayfield Dam:

(i) From 400 feet or posted markers below Cowlitz Salmon Hatchery barrier dam to boundary markers near the Cowlitz Salmon Hatchery water intake approximately 1,700 feet upstream of the Cowlitz Salmon Hatchery barrier dam: Closed waters.

(ii) From 400 feet below the Mayfield powerhouse upstream to Mayfield Dam: Closed waters.

(iii) Within a 100 foot radius of the new Cowlitz Trout Hatchery outfall structure, except open to anglers with disabilities who permanently use a wheelchair and possess a designated harvester companion card within posted markers when adjacent waters are open: Closed waters.

(iv) Within a 100 foot radius of the Cowlitz Salmon Hatchery wheelchair ramp (within the posted fishing boundary) except for anglers with disabilities **and** who have a designated harvester companion card: Closed waters.

(v) Barbless hooks are required for salmon, steelhead, and cutthroat trout August 1 through May 31.

(vi) From the mouth of Mill Creek to the Cowlitz Salmon Hatchery barrier dam:

(A) It is unlawful to fish from a floating device.

(B) April 1 through November 30:

(I) Anti-snagging rule. ((*Anglers may only retain fish hooked in the mouth when the anti-snagging rule applies.*))

(II) Night closure.

(C) May 1 through June 15: It is unlawful to fish from the south side of the river.

(vii) Open year-round.

(viii) Game fish: Statewide minimum length/daily limit, except:

(A) Trout.

(I) Release wild rainbow and wild cutthroat trout.

(II) The Saturday before Memorial Day through March 31: Daily limit 5; minimum length 8 inches.

(B) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

(ix) Salmon:

(A) Open ((year round)) January 1 through July 31.

((B)) (I) Limit 6; up to 2 may be adults.

((C)) (II) Only hatchery Chinook and hatchery coho may be retained.

(B) Open August 1 through December 31.

(I) Limit 6; up to 3 may be adults, of which 2 may be Chinook.

(II) Only hatchery Chinook and hatchery coho may be retained.

(b) From the posted PUD sign on Peters Road to the Forest Road 1270 (old Jody's Bridge):

(i) Barbless hooks are required for salmon and steelhead.

(ii) Closed to all angling within posted "Closed Waters" signs around the adult fish release site.

(iii) September 1 through October 31: Anti-snagging rule and night closure. ((When the anti-snagging rule is in effect, only fish hooked inside the mouth may be retained.))

(iv) Open year-round.

(v) Game fish: Statewide minimum length/daily limit, except: Release wild rainbow and wild cutthroat trout.

(vi) Salmon:

(A) Open year-round.

(B) Limit 6; up to 2 may be adults.

(C) Only hatchery Chinook and hatchery coho may be retained.

(c) From Forest Road 1270 (old Jody's Bridge) upstream and tributaries.

(i) Selective gear rules.

(ii) Game fish: Statewide minimum length/daily limit, except: Release wild rainbow and wild cutthroat trout.

#### (19) Deep River (Wahkiakum County):

(a) Open year-round.

(b) Game fish: Statewide minimum length/daily limit, except:

(i) Trout: Daily limit 2; minimum length 14 inches.

(ii) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

(c) Salmon:

(i) Limit 6; up to 2 may be adults.

(ii) Only hatchery Chinook and hatchery coho may be retained.

#### (20) Delameter Creek (Cowlitz County):

(a) From 400 feet below to 200 feet above the temporary weir while the weir is installed in the creek: Closed waters.

(b) Selective gear rules.

(c) Game fish: Statewide minimum length/daily limit, except:

(i) Trout: Daily limit 2; minimum length 14 inches.

(ii) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

(d) Salmon:

(i) Open August 1 through October 31.

(ii) Limit 6; up to 2 may be adults.

(iii) Only hatchery Chinook and hatchery coho may be retained.

(21) Drano Lake (Skamania County): In the waters downstream of markers on point of land downstream and across from Little White Salmon National Fish Hatchery and upstream of the Highway 14 Bridge:

(a) Barbless hooks are required for salmon and steelhead January 1 through March 15 and July 1 through September 30.

(b) Closed on Wednesdays beginning the second Wednesday in April through June 30.

(c) Closed from 6 p.m. Tuesdays through 6 p.m. Wednesdays during the month of October.

(d) March 16 through ((October 31)) June 30: Night closure.

(e) August 1 through December 31: Anti-snagging rule. ((When the anti-snagging rule is in effect, only fish hooked inside the mouth may be retained.))

(f) May 1 through June 30 and October 1 through December 31:

(i) Each angler aboard a vessel may deploy salmon/steelhead angling gear until the salmon/steelhead limit for all anglers aboard has been achieved.

(ii) Two-pole fishing for salmon/steelhead is permissible so long as the angler possesses a two-pole endorsement.

(g) April 16 through June 30: The area west of a line projected from the easternmost pillar of the Highway 14 Bridge to a posted marker on the north shore is open only to bank fishing.

(h) Open year-round.

(i) Game fish: Statewide minimum length/daily limit, except:

(A) Bass: No limit and no size restriction.

(B) Channel catfish: No limit.

(C) Walleye: No limit and no size restriction.

(D) Release trout.

(E) Steelhead: From January 1 through March 15; daily limit 2 hatchery steelhead; minimum length 20 inches.

(ii) Salmon and steelhead: Open March 16 through December 31:

(A) March 16 through July 31: Limit 2 hatchery steelhead or 2 hatchery Chinook, or one of each. Release all other salmon.

(B) August 1 through December 31: Limit 6; no more than 3 adult salmonids, of which no more than ((2)) one hatchery steelhead may be retained.

#### (22) Elochoman River (Wahkiakum County):

(a) From 200 feet above the department of fish and wildlife temporary weir downstream to Foster (Risk) Road Bridge while the weir is installed in the river: Closed waters.

(b) September 1 through October 31: From 200 feet above the temporary weir upstream to the Elochoman Hatchery Bridge: Closed waters.

(c) From the mouth to West Fork:

(i) Open the Saturday before Memorial Day through March 15.

(ii) August 1 through October 31: Anti-snagging rule, night closure, and stationary gear restriction. ((When the anti-snagging rule is in effect, only fish hooked inside the mouth may be retained.))

(iii) Barbless hooks are required for salmon and steelhead August 1 through the Friday before Memorial Day.

- (iv) Game fish: Statewide minimum length/daily limit, except:
  - (A) Trout: Daily limit 2; minimum length 14 inches.
  - (B) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.
- (v) Salmon:
  - (A) Daily limit 6; up to 2 may be adults.
  - (B) Only hatchery Chinook and hatchery coho may be retained.
- (d) From the mouth to the ((Beaver Creek)) Elochoman Hatchery Bridge: Salmon and steelhead:
  - (i) Open April 16 through the Friday before Memorial Day.
  - (ii) Minimum length 12 inches; daily limit 6; of which 3 may be adult hatchery Chinook or hatchery steelhead. Release wild Chinook.
  - (e) From West Fork upstream:
    - (i) Game fish: Statewide minimum length/daily limit, except: Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.
    - (ii) Salmon:
      - (A) Limit 6; up to 2 may be adults.
      - (B) Only hatchery Chinook and hatchery coho may be retained.
  - (23) **Franz Lake (Skamania County)**: Closed waters.
  - (24) **Germany Creek (Cowlitz County) and all tributaries**:
    - (a) Open the Saturday before Memorial Day through August 31 and November 1 through March 15.
    - (b) Selective gear rules.
    - (c) Game fish: Statewide minimum length/daily limit, except:
      - (i) Trout: Daily limit 2; minimum length 14 inches.
      - (ii) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.
      - (d) Salmon:
        - (i) Open November 1 through December 31.
        - (ii) Limit 6; up to 2 may be adults.
        - (iii) Only hatchery Chinook and hatchery coho may be retained.
    - (25) **Grays River (Wahkiakum County)**: From the mouth to South Fork:
      - (a) Barbless hooks are required for salmon and steelhead.
      - (b) Open the Saturday before Memorial Day through March 15, except closed from Highway 4 Bridge to mouth of South Fork from October 16 through November 30.
      - (c) From 400 feet below to 200 feet above the temporary weir while the weir is installed in the river: Closed waters.
      - (d) Anti-snagging rule, night closure and stationary gear restriction:
        - (i) From the mouth to the Highway 4 Bridge August 1 through November 15.
        - (ii) From the Highway 4 Bridge to the mouth of South Fork August 1 through October 15.
          - ((iii) When the anti-snagging rule is in effect, only fish hooked inside the mouth may be retained.))
        - (e) Selective gear rules January 1 through March 15.
        - (f) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

- (g) Salmon:
  - (i) From the mouth to the Highway 4 Bridge: Open the Saturday before Memorial Day through December 31.
    - (A) Limit 6; up to 2 may be adults.
    - (B) Only hatchery Chinook or hatchery coho may be retained.
    - (C) Effective August 1, all Chinook must be adipose and/or ventral fin clipped to be kept.
  - (ii) From the Highway 4 Bridge to the South Fork: Open the Saturday before Memorial Day through October 15 and December 1 through December 31.
    - (A) Limit 6; up to 2 may be adults.
    - (B) Only hatchery Chinook or hatchery coho may be retained.
    - (C) Effective August 1, all Chinook must be adipose and/or ventral fin clipped to be kept.
    - (h) From South Fork upstream:
      - (i) Selective gear rules.
      - (ii) Open the Saturday before Memorial Day through March 15.
        - (iii) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.
        - (iv) Salmon:
          - (A) Open the Saturday before Memorial Day through December 31.
          - (B) Daily limit 6; minimum length 12 inches. Up to 2 adults may be retained.
          - (C) Only hatchery Chinook and hatchery coho may be retained. All Chinook must be adipose and/or ventral fin clipped to be retained.
    - (26) **Grays River tributaries (unless otherwise listed) (Wahkiakum County)**:
      - (a) Selective gear rules.
      - (b) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.
    - (27) **Grays River, East Fork (Wahkiakum County)**:
      - (a) Selective gear rules.
      - (b) Open the Saturday before Memorial Day through October 31.
        - (c) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.
        - (d) Salmon:
          - (i) Open the Saturday before Memorial Day through October 31.
            - (ii) Limit 6; up to 2 may be adults.
            - (iii) Only hatchery Chinook and hatchery coho may be retained.
            - (iv) Effective August 1, all Chinook must be adipose and/or ventral fin clipped to be kept.
      - (28) **Grays River, East Fork tributaries (unless otherwise listed) (Wahkiakum County)**:
        - (a) Selective gear rules.
        - (b) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.
      - (29) **Grays River, South Fork (Wahkiakum County)**:
        - (a) Selective gear rules.
        - (b) Open the Saturday before Memorial Day through October 31.
          - (c) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

(d) Salmon:

(i) Open the Saturday before Memorial Day through October 31.

(ii) Limit 6; up to 2 may be adults.

(iii) Only hatchery Chinook and hatchery coho may be retained; all Chinook must be adipose and/or ventral fin clipped to be kept.

**(30) Grays River, South Fork tributaries (unless otherwise listed) (Wahkiakum County):**

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

**(31) Grays River, West Fork (Wahkiakum County):**

(a) Barbless hooks are required for salmon and steelhead.

(b) Open the Saturday before Memorial Day through December 31.

(c) August 1 through November 15: Anti-snagging rule, night closure and stationary gear restriction. ((~~When the anti-snagging rule is in effect, only fish hooked inside the mouth may be retained.~~))

(d) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

(e) Salmon: Open the Saturday before Memorial Day through December 31.

(i) Limit 6; up to 2 may be adults.

(ii) Only hatchery Chinook or hatchery coho may be retained; all Chinook must be adipose and/or ventral fin clipped to be kept.

**(32) Grays River, West Fork tributaries (unless otherwise listed) (Wahkiakum County):**

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

**(33) Green River (Cowlitz County):**

(a) From the mouth to Miner's Creek:

(i) From 400 feet above and 400 feet below the salmon hatchery rack (or from the posted signs above and below the salmon hatchery rack) when the rack is installed in the river: Closed waters.

(ii) From 400 feet below to 400 feet above the water intake at the upper end of the hatchery grounds from September 1 through November 30: Closed waters.

(iii) September 1 through October 31: Anti-snagging rule applies and night closure in effect from the mouth to 400 feet below the salmon hatchery rack. ((~~When the anti-snagging rule is in effect, only fish hooked inside the mouth may be retained.~~))

(iv) Barbless hooks required for salmon and steelhead August 1 through November 30.

(v) Selective gear rules from the Saturday before Memorial Day through July 31 and December 1 through March 15.

(vi) Open the Saturday before Memorial Day through March 15. Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

(vii) Salmon:

(A) Open August 1 through November 30.

(B) Daily limit 6; up to 2 may be adults.

(C) Only ((~~hatchery Chinook and~~)) hatchery coho may be retained.

(b) From Miner's Creek upstream:

(i) Selective gear rules.

(ii) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

**(34) Green River tributaries (Cowlitz County):**

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

**(35) Grizzly Lake (Skamania County):** Closed waters.

**(36) Hamilton Creek (Skamania County):**

(a) Tributaries downstream from the Highway 14 Bridge: Closed waters.

(b) Selective gear rules.

(c) Game fish: Statewide minimum length/daily limit, except:

(i) Trout: Daily limit 2; minimum length 14 inches.

(ii) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

(d) Salmon:

(i) Open August 1 through October 31.

(ii) Limit 6; up to 2 may be adults.

(iii) Only hatchery Chinook and hatchery coho may be retained.

**(37) Horsethief Lake (Klickitat County):** Open the fourth Saturday in April through October 31.

**(38) Indian Heaven Wilderness Lakes (Skamania County):** Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2; minimum length 8 inches.

**(39) Johnson Creek (Lewis County) (Cowlitz River tributary):** Selective gear rules.

**(40) Kalama River (Cowlitz County):**

(a) From boundary markers at the mouth upstream to 1,000 feet below the fishway at the upper salmon hatchery:

(i) From Modrow Bridge downstream to the markers 1,500 feet below the temporary rack when the rack is installed below Modrow Bridge: Closed waters.

(ii) From the railroad bridge below I-5 to the intake at the lower salmon hatchery: From April 1 through October 31:

(A) Night closure.

(B) Anti-snagging rule. ((~~When the anti-snagging rule is in effect, only fish hooked inside the mouth may be retained.~~))

(iii) It is unlawful to fish from a floating device equipped with an internal combustion motor upstream of Modrow Bridge.

(iv) Barbless hooks are required for salmon and steelhead.

(v) Open September 1 through October 31 for fly fishing only from the natural gas pipeline crossing to the posted deadline at the intake to the lower salmon hatchery.

(vi) Open year-round.

(vii) Game fish: Statewide minimum length/daily limit, except:

(A) Trout: Daily limit 2; minimum length 14 inches.

(B) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

(viii) Salmon:

(A) Open ((~~year-round~~)).

(B)) January 1 through July 31:

(I) Daily limit 6; up to 2 may be adults.

((E)) (II) Only hatchery Chinook and hatchery coho may be retained.

(B) Open August 1 through December 31:

(I) Daily limit 6; up to 3 may be adults, of which only 2 may be coho.

(II) Only hatchery Chinook and hatchery coho may be retained.

(b) From 1,000 feet below to 1,000 feet above the fishway at upper salmon hatchery: Closed waters.

(c) From 1,000 feet above the fishway at the upper salmon hatchery, upstream to Summers Creek ((and all tributaries)):

(i) Open year-round.

(ii) Selective gear rules.

(iii) Game fish: Statewide minimum length/daily limit, except:

(A) Trout: Daily limit 2; minimum length 14 inches.

(B) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

(d) From Summers Creek upstream to the intersection of 6000 and 6420 roads:

(i) Barbless hooks are required for salmon and steelhead.

(ii) Open year-round:

(A) Fly fishing only.

(B) Game fish: Statewide minimum length/daily limit, except:

(I) Trout: Daily limit 2; minimum length 14 inches.

(II) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

(e) ((6420 Road Bridge to Jack Creek and tributaries))

From the intersection of 6000 and 6420 roads to the 6600 road bridge immediately downstream of Jacks Creek:

(i) Selective gear rules.

(ii) Open the Saturday before Memorial Day through November 30.

(iii) Game fish: Statewide minimum length/daily limit, except:

(A) Trout: Daily limit 2; minimum length 14 inches.

(B) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

(f) From the 6600 road bridge immediately downstream of Jacks Creek to Kalama Falls and tributaries: Closed waters.

(41) Klickitat River (Klickitat County):

(a) From the mouth (Burlington Northern Railroad Bridge) to Fisher Hill Bridge:

(i) April 1 to the Friday before Memorial Day open only for salmon and steelhead on Mondays, Wednesdays, and Saturdays only:

(A) Anti-snagging rule and night closure. ((When the anti-snagging rule is in effect, only fish hooked inside the mouth may be retained.))

(B) Limit 2; no more than 2 hatchery steelhead, or 2 salmon, or one of each, may be retained.

(C) Release wild Chinook.

(D) Barbless hooks required for salmon and steelhead.

(ii) Open Saturday before Memorial Day through July

31.

(A) Game fish: Statewide minimum length/daily limit, except:

(I) Trout: Daily limit 2; minimum length 14 inches.

(II) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

(B) Salmon: Daily limit 6; no more than 2 adults may be retained: Release wild Chinook.

(C) Barbless hooks required for salmon and steelhead.

(iii) Open August 1 through January 31.

(A) Anti-snagging rule and night closure. ((When the anti-snagging rule is in effect, only fish hooked inside the mouth may be retained.))

(B) Game fish: Statewide minimum length/daily limit, except:

(I) Trout: Daily limit 2; minimum length 14 inches.

(II) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

(C) Salmon: Daily limit 6; no more than 3 adults may be retained.

(b) From Fisher Hill Bridge to the boundary markers above Klickitat Salmon Hatchery, the following waters are closed: From Fishery Hill Bridge to 400 feet above #5 fishway, tributaries except Bird, Blockhouse, Bowman, Spring, Outlet creeks and the Little Klickitat River, and the waters from the boundary markers above Klickitat Salmon Hatchery to the boundary markers below the hatchery.

(c) From 400 feet above #5 fishway to the boundary markers below Klickitat Salmon Hatchery:

(i) Barbless hooks are required for salmon and steelhead.

(ii) Open the Saturday before Memorial Day through November 30:

(A) Game fish: Statewide minimum length/daily limit, except:

(B) Trout: Daily limit 2; minimum length 14 inches.

(C) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

(iii) Whitefish:

(A) Open December 1 through the last day in February for Whitefish only.

(B) Whitefish gear rules.

(iv) Salmon:

(A) Saturday before Memorial Day through July 31:

(I) Limit 6 fish; no more than 2 adults may be retained.

(II) Release wild Chinook.

(B) August 1 through November 30: Limit 6 fish; no more than 3 may be adults, of which only 2 may be coho.

(d) From the boundary markers above Klickitat Salmon Hatchery to the Yakama Indian Reservation boundary:

(i) Game fish open the Saturday before Memorial Day through November 30.

(ii) Game fish: Statewide minimum length/daily limit, except:

(A) Trout: Daily limit 2; minimum length 14 inches.

(B) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

(iii) Whitefish:

(A) Open December 1 through the last day in February for whitefish only.

(B) Whitefish gear rules.

(iv) Barbless hooks are required for salmon and steelhead.

**(42) Lacamas Creek (Clark County):**

(a) From the mouth to the footbridge at the lower falls:  
 (i) Open the Saturday before Memorial Day through August 31.

(ii) Selective gear rules.

(iii) Game fish: Statewide minimum length/daily limit, except:

(A) Trout: Daily limit 2; minimum length 14 inches.

(B) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

(b) From the footbridge at the lower falls upstream: It is permissible to fish up to the base of Lacamas Lake Dam.

**(43) Lacamas Creek, tributary of Cowlitz River (Lewis County):**

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except:

(i) Trout: Daily limit 2; minimum length 14 inches.

(ii) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

(c) Salmon:

(i) Open August 1 through October 31.

(ii) Limit 6; up to 2 may be adults.

(iii) Only hatchery Chinook and hatchery coho may be retained.

**(44) Lewis River (Clark County):**

(a) Mouth to the mouth of Colvin Creek:

(i) Open year-round.

(ii) From Johnson Creek upstream May 1 through May 31: Closed waters.

(iii) Those waters shoreward of the cable buoy and corkline at the mouth of the Lewis River Salmon Hatchery fish ladder: Closed waters.

(iv) Barbless hooks are required for salmon and steelhead.

(v) Anti-snagging rule and night closure from Johnson Creek to Colvin Creek June 1 through November 30 and April 1 through April 30. ((When the anti-snagging rule is in effect, only fish hooked inside the mouth may be retained.))

(vi) It is unlawful to fish from a floating device from October 1 through November 30 from the mouth of Johnson Creek upstream to the mouth of Colvin Creek.

(vii) Game fish: Statewide minimum length/daily limit, except:

(A) Trout: Daily limit 2; minimum length 14 inches.

(B) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

((viii))) (viii) Salmon:

(A) Open January 1 through April 30: Daily limit 6 hatchery Chinook; only one may be an adult.

(B) Open August 1 through ((the fourth Friday in)) September 30:

(I) Limit 6; up to 2 may be adults.

(II) Only hatchery Chinook and hatchery coho may be retained.

(C) Open ((the fourth Saturday in September)) October 1 through December 31:

(I) Limit 6; up to 2 may be adults, of which only one may be a Chinook.

(II) Only Chinook and hatchery coho may be retained.

(b) From the mouth of Colvin Creek to the overhead powerlines at Merwin Dam:

(i) Barbless hooks are required for salmon and steelhead.

(ii) Open June 1 through October 31 and December 16 through April 30.

(iii) Anti-snagging rule and night closure April 1 through April 30 and June 1 through October 31. ((When the anti-snagging rule is in effect, only fish hooked inside the mouth may be retained.))

(iv) Game fish: Statewide minimum length/daily limit, except:

(A) Trout: Daily limit 2; minimum length 14 inches.

(B) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

(v) Salmon:

(A) Open August 1 through October 31 and December 16 through April 30.

(B) January 1 through April 30: Limit 6 hatchery Chinook; only one may be an adult.

(C) August 1 through ((the fourth Friday in)) September 30:

(I) Limit 6; up to 2 may be adults.

(II) Only hatchery Chinook and hatchery coho may be retained.

(D) ((The fourth Saturday in September)) October 1 through October 31 and December 16 through December 31:

(I) Limit 6; up to 2 may be adults, of which one may be a Chinook.

(II) Only Chinook and hatchery coho may be retained.

(c) From the overhead powerlines below Merwin Dam to Merwin Dam: Closed waters.

(d) From the cable crossing 1,300 feet below Yale Dam to Yale Dam: Closed waters.

(e) From the old Lewis River streambed between Swift No. 1 Powerhouse and Swift No. 2 Powerhouse: Closed waters.

(f) Lewis River Power Canal:

(i) Open the fourth Saturday in April through October 31.

(ii) It is unlawful to fish from a floating device.

(iii) Game fish: Statewide minimum length/daily limit, except:

(iv) Trout: Daily limit 5; no minimum length.

(g) From Eagle Cliff Bridge to Muddy River, including tributaries:

(i) Selective gear rules.

(ii) Open the Saturday before Memorial Day through July 15.

(iii) Game fish: Statewide minimum length/daily limit, except:

(iv) Trout:

(A) Daily limit 10; minimum length 8 inches.

(B) Release wild trout.

(h) From Muddy River to the lower falls and tributaries:

(i) Selective gear rules.

(ii) Release all fish.

(45) **Lewis River, East Fork (Clark/Skamania counties):**

(a) From the posted markers at the lower end of Big Eddy to 100 feet above Lucia Falls: Closed waters.

- (b) From 400 feet below to 400 feet above Moulton Falls: Closed waters.
- (c) From 400 feet below Horseshoe Falls upstream, including tributaries above Horseshoe Falls: Closed waters.
- (d) From the mouth to 400 feet below Horseshoe Falls:
  - (i) Open the Saturday before Memorial Day through July 15 and September 16 through March 15.
  - (ii) Selective gear rules.
  - (iii) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.
  - (iv) Salmon:
    - (A) Open September 16 through December 31.
    - (B) Limit 6; up to 2 may be adults.
    - (C) Only hatchery Chinook and hatchery coho may be retained.
  - (e) Tributaries from the mouth to 400 feet below Horseshoe Falls:
    - (i) Selective gear rules.
    - (ii) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.
- (46) **Little Klickitat River (Klickitat County):** Within Goldendale city limits:
  - (a) Open the fourth Saturday in April through the Friday before Memorial Day to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.
  - (b) Open the Saturday before Memorial Day through October 31 to all anglers.
  - (c) Game fish: Statewide minimum length/daily limit, except: Trout: Limit 5; no minimum length.
- (47) **Little Washougal River (Clark County):**
  - (a) Selective gear rules.
  - (b) Game fish: Statewide minimum length/daily limit, except:
    - (i) Trout: Daily limit 2; minimum length 14 inches.
    - (ii) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.
    - (c) Salmon:
      - (i) Open August 1 through October 31.
      - (ii) Limit 6; up to 2 may be adults.
      - (iii) Only hatchery Chinook and hatchery coho may be retained.
  - (48) **Little White Salmon River (Skamania County):**
    - (a) From the orange fishing boundary markers at Drano Lake upstream to the intake near the north boundary of the Little White Salmon National Fish Hatchery: Closed waters.
    - (b) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 5; minimum length 8 inches.
  - (49) **Love Lake (Clark County):** Closed waters.
  - (50) **Mayfield Lake (Reservoir) (Lewis County):**
    - (a) Open from the Mayfield Dam to Onion Rock Bridge.
    - (b) From the Tacoma Power safety signs at Onion Rock Bridge to Mossyrock Dam: Closed waters.
    - (c) Game fish: Statewide minimum length/daily limit, except:
      - (i) Trout: Daily limit 10; minimum length 8 inches.
      - (ii) Release wild rainbow trout and wild cutthroat trout.
      - (d) Salmon:
        - (i) Open September 1 through December 31.
        - (ii) Daily limit 6; minimum length 12 inches.

- (iii) No more than 2 may be adults.
- (iv) Only hatchery Chinook and hatchery coho may be retained.
- (51) **Merrill Lake (Cowlitz County):**
  - (a) Fly fishing only.
  - (b) It is unlawful to fish from a floating device equipped with an internal combustion motor.
  - (c) Release all fish.
- (52) **Merwin Lake (Reservoir) (Clark/Cowlitz counties):** Landlocked salmon rules.
- (53) **Mill Creek (Cowlitz County):**
  - (a) Open the Saturday before Memorial Day through August 31 and November 1 through March 15.
  - (b) Selective gear rules.
  - (c) Game fish: Statewide minimum length/daily limit, except:
    - (i) Trout: Daily limit 2; minimum length 14 inches.
    - (ii) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.
    - (d) Salmon:
      - (i) Open November 1 through December 31.
      - (ii) Limit 6; up to 2 may be adults.
      - (iii) Only hatchery Chinook and hatchery coho may be retained.
  - (54) **Mill Creek (Lewis County):** From the mouth to the hatchery road crossing culvert.
    - (a) Selective gear rules.
    - (b) Open the Saturday before Memorial Day through October 31 and December 1 through December 31.
    - (c) Anti-snagging rule from December 1 through December 31. ((When the anti-snagging rule is in effect, only fish hooked inside the mouth may be retained.))
    - (d) Night closure from December 1 through December 31.
    - (e) Game fish: Statewide minimum length/daily limit, except:
      - (i) Trout: Daily limit 2; minimum length 14 inches.
      - (ii) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.
      - (f) Salmon:
        - (i) Open August 1 through October 31 and December 1 through December 31.
        - (ii) Limit 6; up to 2 may be adults.
        - (iii) Only hatchery Chinook and hatchery coho may be retained.
    - (55) **Mineral Lake (Lewis County):** Open the fourth Saturday in April through September 30.
    - (56) **Olequa Creek (Lewis/Cowlitz counties):**
      - (a) From 400 feet below to 200 feet above the temporary weir while the weir is installed in the creek: Closed waters.
      - (b) Selective gear rules.
      - (c) Game fish: Statewide minimum length/daily limit, except:
        - (i) Trout: Daily limit 2; minimum length 14 inches.
        - (ii) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.
        - (d) Salmon:
          - (i) Open August 1 through October 31.
          - (ii) Limit 6; up to 2 may be adults.

(iii) Only hatchery Chinook and hatchery coho may be retained.

**(57) Ostrander Creek (Cowlitz County):**

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except:

(i) Trout: Daily limit 2; minimum length 14 inches.

(ii) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

**(58) Outlet Creek (Silver Lake) (Cowlitz County):**

(a) From the Saturday before Memorial Day through November 30.

(b) Selective gear rules.

(c) Game fish: Statewide minimum length/daily limit, except:

(i) Trout: Daily limit 2; minimum length 14 inches.

(ii) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

(d) Salmon:

(i) Open August 1 through November 30.

(ii) Limit 6; up to 2 may be adults.

(iii) Only hatchery Chinook and hatchery coho may be retained.

**(59) Rainey Creek (Lewis County):**

(a) From mouth to Highway 12.

(b) Game fish: Statewide minimum length/daily limit, except:

(i) Trout: Daily limit 5; minimum length 8 inches.

(ii) Release wild rainbow and cutthroat trout.

**(60) Riffe Lake (Reservoir) (Lewis County):**

(a) Open from Mossyrock Dam to Cowlitz Falls Dam:

(b) From Cowlitz Falls Dam downstream to the Lewis County PUD safety signs located approximately 800 feet below the dam: Closed waters.

(c) It is permissible to fish up to the base of Swofford Pond Dam.

(d) Landlocked salmon rules.

**(61) Rock Creek (Klickitat County):**

(a) From Army Corps of Engineers Park upstream to the source: Closed waters.

(b) Open year-round from the mouth to the Army Corps of Engineers Park. Limits, size restrictions, and gear restrictions are the same as those in the adjacent portion of the Columbia River.

**(62) Rock Creek (Skamania County):** From the mouth to the falls at approximately river mile one:

(a) Barbless hooks are required for salmon and steelhead.

(b) Open the Saturday before Memorial Day through March 15.

(c) Game fish: Statewide minimum length/daily limit, except:

(i) Trout: Daily limit 2; minimum length 14 inches.

(ii) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

(d) Salmon:

(i) Open August 1 through December 31.

(ii) Limit 6; up to 2 may be adults.

(iii) Only hatchery Chinook and hatchery coho may be retained.

**(63) Rowland Lake, North (Klickitat County):** Open the fourth Saturday in April through March 31.

**(64) Salmon Creek (Clark County):** From the mouth to 182nd Avenue Bridge:

(a) Barbless hooks are required for salmon and steelhead.

(b) Open the Saturday before Memorial Day through March 15.

(c) Game fish: Statewide minimum length/daily limit, except:

(i) Trout: Daily limit 2; minimum length 14 inches.

(ii) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

(d) Salmon:

(i) Open August 1 through December 31.

(ii) Limit 6; up to 2 may be adults.

(iii) Only hatchery Chinook and hatchery coho may be retained.

**(65) Salmon Creek (Lewis County):**

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except:

(i) Trout: Daily limit 2; minimum length 14 inches.

(ii) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

(c) Salmon:

(i) Open August 1 through October 31.

(ii) Limit 6; up to 2 may be adults.

(iii) Only hatchery Chinook or hatchery coho may be retained.

**(66) Silver Lake (Cowlitz County):** Game fish: Statewide minimum length/daily limit, except:

(a) Crappie: Daily limit 10; minimum length 9 inches.

(b) Grass carp: No daily limit; no minimum length.

**(67) Silver Creek (tributary to Cowlitz River) (Lewis County):** From the mouth to USFS Road 4778. Selective gear rules.

**(68) Skamokawa Creek (Wahkiakum County):**

(a) Selective gear rules.

(b) Open the Saturday before Memorial Day through August 31 and November 1 through March 15.

(c) Game fish: Statewide minimum length/daily limit, except:

(i) Trout: Daily limit 2; minimum length 14 inches.

(ii) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

(d) Salmon:

(i) Open November 1 through December 31.

(ii) Limit 6; up to 2 may be adults.

(iii) Only hatchery Chinook and hatchery coho may be retained.

**(69) Skate Creek (tributary to Cowlitz River) (Lewis County):** Selective gear rules.

**(70) Spearfish Lake (Klickitat County):** Open the fourth Saturday in April through March 31.

**(71) Spirit Lake (Skamania County):** Closed waters.

**(72) Spring Creek (Klickitat County):** From Hill Road upstream to the Goldendale Hatchery: Game fish: Statewide minimum length/daily limit, except: Trout: Limit 5; minimum length 8 inches.

**(73) Stillwater Creek (Lewis County):**

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except:

(i) Trout: Daily limit 2; minimum length 14 inches.

(ii) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

(c) Salmon:

(i) Open August 1 through October 31.

(ii) Limit 6; up to 2 may be adults.

(iii) Only hatchery Chinook and hatchery coho may be retained.

**(74) Swift Reservoir (Skamania County):**

(a) From dam to posted markers approximately 3/8 mile below Eagle Cliff Bridge:

(i) Open the Saturday before Memorial Day through November 30.

(ii) Game fish: Statewide minimum length/daily limit, except: Trout:

(A) Daily limit 10; minimum length 8 inches.

(B) Release wild trout.

(C) Release all steelhead.

(iii) Salmon:

(A) Open the Saturday before Memorial Day through November 30.

(B) Landlocked salmon rules.

(C) Maximum length 15 inches.

(b) From the posted markers approximately 3/8 mile below Eagle Cliff Bridge to the bridge:

(i) Selective gear rules.

(ii) Open the Saturday before Memorial Day through July 15.

(iii) Game fish: Statewide minimum length/daily limit, except: Trout:

(A) Daily limit 10; minimum length 8 inches.

(B) Release wild trout.

(C) Release all steelhead.

(iv) Salmon:

(A) Open the Saturday before Memorial Day through July ((34)) 15.

(B) Landlocked salmon rules.

(C) Maximum length 15 inches.

**(75) Tilton River (Lewis County):** From the mouth to the West Fork:

(a) Within posted "Closed Waters": Signs around the adult fish release site: Closed waters.

(b) Barbless hooks are required for salmon and steelhead.

(c) Anti-snagging rule from September 1 through October 31. ((When the anti-snagging rule is in effect, only fish hooked inside the mouth may be retained.))

(d) Night closure from September 1 through October 31.

(e) Game fish: Statewide minimum length/daily limit, except: Release wild rainbow and wild cutthroat trout. Open year-round.

(f) Salmon:

(i) Open year-round.

(ii) Limit 6; up to 2 may be adults.

(iii) Only hatchery Chinook and hatchery coho may be retained.

**(76) Tilton River, East, North, South and West Forks (Lewis County):** Selective gear rules.**(77) Toutle River (Cowlitz County):** From the mouth to the forks:

(a) Barbless hooks required for salmon and steelhead.

(b) Open the Saturday before Memorial Day through March 15.

(c) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2; minimum length 14 inches.

(d) Salmon open August 1 through November 30:

(i) Limit 6; up to 2 may be adults, of which one may be a hatchery Chinook.

(ii) Only hatchery Chinook and hatchery coho may be retained.

**(78) Toutle River tributaries (unless otherwise listed) (Cowlitz County):**

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Release wild trout.

**(79) Toutle River, North Fork (Cowlitz County):**

(a) From the mouth to the posted deadline below the fish collection facility:

(i) Open the Saturday before Memorial Day through March 15.

(ii) September 1 through October 15: Anti-snagging rule and night closure on the North Fork from the confluence with the South Fork to the mouth of Green River. ((When the anti-snagging rule is in effect, only fish hooked inside the mouth may be retained.))

(iii) Barbless hooks are required for salmon and steelhead.

(iv) Selective gear rules the Saturday before Memorial Day through July 31 and December 1 through March 15.

(v) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

(vi) Salmon open August 1 through Nov 30:

(A) Daily limit 6; up to 2 may be adults, of which one may be a Chinook.

(B) Only hatchery Chinook and hatchery coho may be retained.

(b) From the posted deadline downstream of the fish collection facility upstream and tributaries: Closed waters.

**(80) Toutle River, North Fork tributaries from the mouth to the posted deadline below the fish collection facility (unless otherwise listed) (Cowlitz County):**

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

**(81) Toutle River, South Fork (Cowlitz County):**

(a) From the mouth to 4700 Road Bridge:

(i) Open April 16 through the Friday before Memorial Day:

(A) Selective gear rules.

(B) Game fish: Statewide minimum length/daily limit, except:

(I) Release trout.

(II) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

(ii) Open the Saturday before Memorial Day through November 30:

(A) Barbless hooks are required for salmon and steelhead from August 1 through November 30.

(B) Game fish: Statewide minimum length/daily limit, except:

(I) Trout: Daily limit 2; minimum length 14 inches.

(II) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

(iii) Open December 1 through March 15:

(A) Selective gear rules.

(B) Game fish: Statewide minimum length/daily limit, except:

(I) Trout: Daily limit 2; minimum length 14 inches.

(II) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

(C) Salmon:

(I) Open August 1 through November 30.

(II) Limit 6; up to 2 may be adults.

(III) Only hatchery Chinook and hatchery coho may be retained.

(b) From 4700 Road Bridge upstream:

(i) Barbless hooks are required for salmon and steelhead from August 1 through November 30.

(ii) Open the Saturday before Memorial Day through March 15.

(iii) From December 1 through March 15: Selective gear rules.

(iv) Game fish: Statewide minimum length/daily limit, except:

(A) Trout: Daily limit 2; minimum length 14 inches.

(B) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

(v) Salmon:

(A) Open August 1 through November 30.

(B) Limit 6; up to 2 may be adults.

(C) Only hatchery Chinook and hatchery coho may be retained.

**(82) Vancouver Lake and all other waters west of Burlington Northern Railroad from the Columbia River drawbridge near Vancouver downstream to Lewis River (Clark County):**

(a) Vancouver Lake flushing channel and the lake shoreline 400 feet east and west of the channel exit: Closed April 1 through May 31.

(b) Chumming is permissible.

(c) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2; minimum length 14 inches.

**(83) Walupt Lake (Lewis County):** All inlet streams: Closed waters.

**(84) Washougal River (Clark County):**

(a) From the mouth to the Mount Norway Bridge:

(i) From 1,000 feet (or posted markers) below to 200 feet above the temporary weir when the weir is installed in the river: Closed waters.

(ii) Night closure.

(iii) Anti-snagging rule from July 1 through October 31.

((When the anti-snagging rule is in effect, only fish hooked inside the mouth may be retained.))

(iv) Open April 16 through the Friday before Memorial Day:

(A) Selective gear rules.

(B) Game fish: Statewide minimum length/daily limit, except:

(I) Release all trout.

(II) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

(v) Open the Saturday before Memorial Day through March 15.

(A) Barbless hooks are required for salmon and steelhead.

(B) Game fish: Statewide minimum length/daily limit, except:

(I) Trout: Daily limit 2; minimum length 14 inches.

(II) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

(vi) Salmon:

(A) Open August 1 through December 31.

(B) Limit 6; up to 2 may be adults.

(C) Only hatchery Chinook and hatchery coho may be retained.

(b) From the Mount Norway Bridge to the bridge at Salmon Falls:

(i) Anti-snagging rule from August 1 through October 31. ((When the anti-snagging rule is in effect, only fish hooked inside the mouth may be retained.))

(ii) Night closure from August 1 through October 31.

(iii) Game fish:

(A) Open from the Saturday before Memorial Day through March 15.

(B) Game fish: Statewide minimum length/daily limit, except:

((A)) (C) Trout: Daily limit 2; minimum length 14 inches.

((B)) (D) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

(iv) Salmon:

(A) Open August 1 through December 31.

(B) Limit 6; up to 2 may be adults.

(C) Only hatchery Chinook and hatchery coho may be retained.

(c) From the bridge at Salmon Falls upstream and tributaries: Closed waters.

**(85) Washougal River, West (North) Fork (Clark/Skamania counties):**

(a) From the mouth to the water intake at the department hatchery: Closed waters.

(b) From the intake at the department hatchery upstream:

(i) Barbless hooks are required for salmon and steelhead.

(ii) Open the Saturday before Memorial Day through March 15.

(iii) Game fish: Statewide minimum length/daily limit, except:

(A) Trout: Daily limit 2; minimum length 14 inches.

(B) Steelhead: Daily limit 3 hatchery steelhead; minimum length 20 inches.

(iv) Salmon:

(A) Open August 1 through December 31.

(B) Limit 6; up to 2 may be adults.

(C) Only hatchery Chinook and hatchery coho may be retained.

**(86) White Salmon River (Klickitat/Skamania counties):**

(a) From the mouth (Burlington Northern Railroad Bridge) to the county road bridge below the former location of the powerhouse:

(i) It is unlawful to fish for salmon and steelhead using anything other than barbless hooks.

(ii) Open year-round.

(iii) Game fish: Statewide minimum length/daily limit, except: Release wild rainbow and wild cutthroat.

(iv) August 1 through December 31: Anti-snagging rule. ((When the anti snagging rule is in effect, fish must be hooked inside the mouth to be retained.))

((v)) August 1 through October 31: Night closure in effect for all species).

((vi))) (v) Salmon and steelhead ((open year-round)): ((v)))

(A) April 1 through July 31:

(I) Limit 2; no more than 2 salmon, or 2 hatchery steelhead, or one of each, may be retained.

(II) Release wild Chinook.

(B) August 1 through March 31:

(I) Limit 6; no more than 2 adult salmon, or 2 hatchery steelhead, or one of each, may be retained.

(II) Salmon: Only hatchery Chinook and hatchery coho may be retained.

(b) From the county road bridge below the former location of the powerhouse upstream to ((the Northwestern Road Bridge)) Big Brother Falls (river mile 16):

(i) ((Open April 1 through October 31:))

((A))) From Big Brother Falls downstream 400 feet: Closed waters.

((ii) Game fish: Statewide minimum length/daily limit, except: Release wild rainbow and wild cutthroat trout.

((B))) (iii) Selective gear rules.

((iii))) (iv) Salmon and steelhead:

(A) ((April 1)) Saturday before Memorial Day through July 31:

(I) Daily limit 2 fish, no more than 2 salmon, or 2 steelhead, or one of each may be retained.

(II) ((Release wild Chinook.)) Only hatchery salmon and hatchery steelhead may be retained.

(B) August 1 through October 31: ((Limit 6; up to 2 may be adults.))

(e) From the Northwestern Road Bridge upstream to Big Brother Falls (river mile 16):

(f) From Big Brother Falls downstream 400 feet: Closed waters.

((ii) Selective gear rules.

((iii) Open the Saturday before Memorial Day through October 31:))

((iv) Game fish: Statewide minimum length/daily limit, except: Release wild rainbow and wild cutthroat trout.

((v) Salmon and steelhead: August 1 through October 31: Limit 6, and up to 2 may be adults.))

(I) Daily limit 6; no more than 2 adult salmon, or 2 steelhead, or one of each may be retained.

(II) Only hatchery salmon and hatchery steelhead may be retained.

**(87) Wind River (Skamania County):**

(a) From the mouth to the Highway 14 Bridge:

(i) Open year-round.

(ii) Barbless hooks are required for salmon and steelhead except from March 16 through June 30.

(iii) March 16 through June 30: Night closure.

(iv) March 16 through June 30: Each angler aboard a vessel may deploy salmon/steelhead angling gear until the salmon/steelhead limit for all anglers aboard has been achieved.

(v) March 16 through June 30: Two-pole fishing for salmon/steelhead is permissible so long as the angler possesses a two-pole endorsement.

(vi) August 1 through October 31: Anti-snagging rule applies. ((When the anti snagging rule is in effect, only fish hooked inside the mouth may be retained.))

(vii) Game fish: Statewide minimum length/daily limit, except:

(A) Release cutthroat trout and wild rainbow trout.

(B) Steelhead: Open November 1 through March 15; daily limit 3 hatchery steelhead; minimum length 20 inches.

(viii) Salmon and steelhead:

(A) Open March 16 through October 31:

(B) Daily limit 6; no more than 2 adult salmon, or 2 hatchery steelhead, or one of each, may be retained.

(C) Release wild Chinook and wild coho.

(b) From the Highway 14 Bridge to 400 feet below Shipherd Falls:

(i) Open year-round.

(ii) Barbless hooks are required for salmon and steelhead from July 1 through March 15.

(iii) March 16 through June 30: Night closure.

(iv) Anti-snagging rule from May 1 through June 30 and August 1 through October 31. ((Only fish hooked inside the mouth may be retained when anti-snagging rule is in effect.))

(v) Game fish: Statewide minimum length/daily limit, except:

(A) Release cutthroat trout and wild rainbow trout.

(B) Steelhead: Open November 1 through March 15; daily limit 3 hatchery steelhead; minimum length 20 inches.

(vi) Salmon and steelhead:

(A) Open March 16 through October 31.

(B) Daily limit 6; no more than 2 salmon, or 2 hatchery steelhead, or one of each, may be retained.

(C) Release wild Chinook and wild coho.

(c) From 400 feet below to 100 feet above Shipherd Falls fish ladder: Closed waters.

(d) From 100 feet above Shipherd Falls fish ladder to 400 feet below the Coffer Dam:

(i) Anti-snagging rule. ((Only fish hooked inside the mouth may be retained.))

(ii) Night closure.

(iii) Open September 16 through November 30:

(A) Release all fish.

(B) Selective gear rules.

(iv) Salmon and steelhead:

(A) Open May 1 through June 30.

(B) Limit 6; no more than 2 adult salmon, or 2 hatchery steelhead, or one of each, may be retained.

(e) From 400 feet below the Coffer Dam to 100 feet above the Coffer Dam: Closed waters.

(f) From 100 feet above the Coffer Dam to 800 yards downstream from Carson National Fish Hatchery:

(i) Anti-snagging rule. ((Only fish hooked inside the mouth may be retained.))

(ii) Night closure.

(iii) Open September 16 through November 30:

(A) Release all fish.

(B) Selective gear rules.

(iv) Salmon and steelhead open May 1 through June 30: Limit 6; no more than 2 adult salmon, or 2 hatchery steelhead, or one of each, may be retained.

(g) From 800 yards downstream from Carson National Fish Hatchery upstream to Moore Bridge:

(i) Open September 16 through November 30.

(ii) Release all fish.

(iii) Selective gear rules.

(h) From Moore Bridge upstream: Closed waters.

(88) **Wind River tributaries (Skamania County):** Closed waters.

(89) **Yale Reservoir (Cowlitz County):** Landlocked salmon rules.

(90) **Yellowjacket Creek (tributary to Cispus River) (Lewis County):** Selective gear rules.

**AMENDATORY SECTION** (Amending WSR 18-06-045, filed 3/1/18, effective 4/1/18)

**WAC 220-312-040 Freshwater exceptions to statewide rules—Puget Sound.** (1) Beaver ponds located within or adjacent to streams that drain into Puget Sound listed as open to trout and other game fish follow the same rules as the adjacent stream.

(2) **County-wide freshwater exceptions to statewide rules:**

(a) Beaver ponds in Kitsap County and Mason County on Tahuya Peninsula west of Belfair-Bremerton Highway (S.R. 3):

(i) Open the fourth Saturday in April through October 31.

(ii) Trout: No minimum length.

(b) Beaver ponds in Kitsap County and Mason County east of Belfair-Bremerton Highway (S.R. 3):

(i) Open the first Saturday in June through October 31.

(ii) Trout: No minimum length.

(3) **Aldrich Lake (Mason County):** Open the fourth Saturday in April through October 31.

(4) **Alexander Lake (Kitsap County):** Closed waters.

(5) **American Lake (Pierce County):**

(a) Chumming is permissible.

(b) Combined daily limit of trout and kokanee is 5, any length.

(6) **Anderson Creek (Kitsap County):**

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

(7) **Armstrong Lake (Snohomish County):** Open the fourth Saturday in April through October 31.

(8) **Bainbridge Island - All streams (Kitsap County):**

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(9) **Baker Lake (Whatcom County):**

(a) Closed waters within a 200 foot radius around the pump discharge at the south end of the lake.

(b) Chumming is permissible.

(c) Open the fourth Saturday in April through October 31.

(d) Game fish: Statewide minimum length/daily limit, except: Kokanee: Minimum length 8 inches and maximum length 18 inches.

(e) Salmon: Open July ((8)) 7 through September 7.

(i) Sockeye: Daily limit ((4)) 3; minimum length 18 inches.

(ii) Each angler aboard a vessel may deploy salmon angling gear until the limit for all licensed and juvenile anglers aboard is reached.

(10) **Baker River (Skagit/Whatcom County):** From the mouth to the Lower Baker Dam: Closed waters.

(11) **Benson Lake (Mason County):** Open the fourth Saturday in April through October 31.

(12) **Big Beaver Creek (Whatcom County), from 1/4 mile upstream of the closed water markers on Ross Lake upstream, including tributary streams and beaver ponds:**

(a) Open July 1 through October 31.

(b) Selective gear rules.

(c) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

(13) **Big Beef Creek (Kitsap County):**

(a) From Seabeck Highway Bridge to Lake Symington:

(i) Open the Saturday before Memorial Day through August 31.

(ii) Selective gear rules.

(iii) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

(iv) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(v) From August 1 through August 31: Closed waters within 100 feet of the Seabeck Highway N.W. Bridge.

(b) From Lake Symington upstream:

(i) Selective gear rules.

(ii) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

(14) **Big Lake (Skagit County):** Landlocked salmon rules.

(15) **Big Mission Creek (Mason County):**

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

(16) **Big Quilcene River (Jefferson County):**

(a) From the mouth to Rodgers Street: Open the Saturday before Memorial Day through August 15.

(i) Selective gear rules.

(ii) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

(b) From Rodgers Street to the Highway 101 Bridge:

(i) Selective gear rules.

(ii) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

(iii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iv) From August 16 through October 31:

- (A) Night closure.
- (B) Anti-snagging rules.

(v) Salmon:

(A) Open August 16 through October 31.

(B) Daily limit 4 coho only; minimum length 12 inches.

(c) From the Highway 101 Bridge to the weir at Quilcene National Fish Hatchery: Closed waters.

(d) From the weir at Quilcene National Fish Hatchery to the upper boundary of Falls View campground:

(i) Selective gear rules.

(ii) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

(17) **Big Soos Creek (King County):** From the mouth to the hatchery rack:

(a) Open the Saturday before Memorial Day through August 31.

(b) Game fish: Statewide minimum length/daily limit, except:

(i) Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(ii) Release all steelhead.

(18) **Black Lake (Thurston County):** Game fish: Statewide minimum length/daily limit, except:

(a) Crappie: Daily limit 10; minimum length 9 inches.

(b) Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(19) **Blackjack Creek (Kitsap County):**

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(20) **Boise Creek (King County) (White River tributary):** From the mouth to the Highway 410 crossing: Closed waters.

(21) **Bosworth Lake (Snohomish County):** Open the fourth Saturday in April through October 31.

(22) **Boulder River (Snohomish County) (N.F. Stillaguamish River tributary):** From the mouth to Boulder Falls:

(a) Open the Saturday before Memorial Day through July 31.

(b) Selective gear rules.

((b)) (c) Game fish: Statewide minimum length/daily limit, except: Release ((cutthroat trout and wild rainbow)) trout.

(23) **Bradley Lake (Pierce County):** Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

(24) **Buck Lake (Kitsap County):** Open the fourth Saturday in April through October 31.

(25) **Burley Creek (Kitsap County):**

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(26) **Cady Lake (Mason County):**

(a) Fly fishing only.

(b) Release all fish.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(27) **Cain Lake (Whatcom County):** Open the fourth Saturday in April through October 31.

(28) **Calligan Lake (King County):** It is unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.

(29) **Campbell Creek (Mason County):**

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

(30) **Campbell Lake (Skagit County):** Grass carp: No daily limit for anglers and bow and arrow fishing allowed.

(31) **Canyon Creek (Snohomish County) (S.F. Stillaguamish River):**

(a) From the mouth to the forks (North Fork and South Fork).

(i) Open the Saturday before Memorial Day through January 31.

(ii) Selective gear rules.

(iii) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

(b) From the forks (North Fork and South Fork) upstream: Closed waters.

(32) **Capitol Lake (Thurston County):** Closed waters.

(33) **Carbon River (Pierce County):**

(a) From the mouth to Voight Creek:

(i) From September 1 through November 30:

(A) Night closure.

(B) Anti-snagging rules.

(ii) Open September 1 through November 30.

(iii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(iv) Open December 1 through January 15:

(A) Selective gear rules.

(B) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

(v) Salmon:

(A) Open September 1 through November 30.

(B) Daily limit 6 fish of which no more than 2 may be adults ((hatchery Chinook)), minimum length 12 inches.

(C) Release ((ehum and)) wild coho, wild ((adult)) Chinook ((salmon)) and chum.

(b) From Voight Creek to the Highway 162 Bridge:

(i) Open from December 1 through January 15.

(ii) Selective gear rules.

(iii) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

(34) **Carney Lake (Pierce County):**

(a) Open the fourth Saturday in April through October 31.

(b) Salmon: Landlocked salmon rules.

(35) **Cascade Creek (San Juan County):**

(a) From the mouth to Mountain Lake.

(b) Selective gear rules.

(c) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

(36) **Cascade Lake (San Juan County):** Open the fourth Saturday in April through October 31.

**(37) Cascade River (Skagit County):**

(a) From the mouth to the Rockport-Cascade Road Bridge:

(i) Open June 1 through July 15 and September 16 through January 31:

(A) June 1 through July 15: Anti-snagging rules and night closure.

(B) Game fish: Statewide minimum length/daily limit, except:

(I) Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(II) Dolly Varden/Bull trout: Minimum length of 20 inches as part of the trout limit.

(ii) Salmon:

(A) Open June 1 through July 15.

(B) Up to 4 hatchery Chinook may be retained; only 2 hatchery Chinook may be adults; minimum length 12 inches.

(C) Release all other salmon.

(iii) Open September 16 through November 30.

(A) Daily limit 4 coho may be retained; minimum length 12 inches. Release all other salmon.

(B) Game fish: Statewide length/daily limit, except:

(I) Cutthroat trout and wild rainbow: Minimum length 14 inches.

(II) Dolly Varden/Bull trout: Minimum length of 20 inches as part of the trout limit.

(b) From the Rockport-Cascade Road Bridge upstream:

(i) Open June 1 through January 31.

(ii) Selective gear rules.

(iii) Release all fish except hatchery steelhead.

(38) **Cavanaugh Lake (Skagit County):** Chumming is permissible.

**(39) Cedar River (King County):**

(a) From the mouth to Landsburg Road:

(i) Open the Saturday before Memorial Day through August 31.

(ii) Selective gear rules.

(iii) Night closure.

(iv) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

(v) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(b) From Landsburg Bridge upstream to the falls: Closed waters.

**(40) Chain Lake (Snohomish County):**

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2; minimum length 14 inches.

**(41) Chambers Creek (Pierce County):**

(a) From the mouth (Burlington Northern Bridge) to the markers 400 feet below the Boise-Cascade Dam:

(i) Selective gear rules, except bait is permissible September 1 through October 15.

(ii) Open the Saturday before Memorial Day through November 15 for game fish and salmon.

(iii) Night closure.

(iv) Anti-snagging rules.

(v) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

(vi) Salmon:

(A) Limit 6 fish of which no more than 4 may be adult salmon; minimum length 12 inches.

(B) Release wild coho.

(b) From Boise-Cascade Dam to Steilacoom Lake:

(i) Selective gear rules.

(ii) Night closure.

(iii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(42) **Chambers Lake (within Ft. Lewis Military Reservation) (Pierce County):**

(a) Selective gear rules.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

(43) **Channel Creek (Whatcom County) (Baker River tributary):** Open the Saturday before Memorial Day through August 31.

(44) **Chaplain Creek (Snohomish County) (Sultan River tributary):** Waters adjacent to the water filtration plant, from the inlet to the beaver pond (Grass Lake) below the water filtration plant gate to the waterfall approximately .4 miles upstream: Closed waters.

(45) **Cherry Creek (King/Snohomish County) (tributary to the Snoqualmie River):** From the mouth to Cherry Creek Falls: Selective gear rules.

**(46) Chico Creek (Kitsap County):**

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

(47) **Church Creek (Mason County):** From the mouth to the bridge on U.S. Forest Service Road #2361: Closed waters.

**(48) Clear Creek (Kitsap County):**

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

**(49) Clear Lake (Pierce County):**

(a) Open the fourth Saturday in April through October 31.

(b) Chumming is permissible.

(50) **Clear Lake (Thurston County):** Open the fourth Saturday in April through October 31.

**(51) Clearwater River (Pierce County):**

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

(52) **Clover Creek (Pierce County):** From the mouth upstream to Steilacoom Lake: Closed waters.

(53) **Cottage Lake (King County):** Open the fourth Saturday in April through October 31.

**(54) Coulter Creek (Kitsap/Mason counties):**

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

(55) **County Line Ponds (Skagit County):** Closed waters.

(56) **Crabapple Lake (Snohomish County):** Open the fourth Saturday in April through October 31.

(57) **Cranberry Creek (Mason County):**

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

(58) **Crescent Creek (Kitsap County):**

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout((÷ Minimum length 14 inches)).

(59) **Crescent Lake (Pierce County):** Open the fourth Saturday in April through October 31.

(60) **Crocker Lake (Jefferson County):** Closed to trout fishing.

(61) **Cushman Lake (Mason County):** Game fish: Statewide minimum length/daily limit, except: Kokanee: Minimum length 8 inches and maximum length 18 inches.

(62) **Dakota Creek (Whatcom County):** From the mouth to Giles Road Bridge.

(a) Open the Saturday before Memorial Day through December 31.

(b) Selective gear rules.

(c) Salmon:

(i) Open October 1 through December 31.

(ii) Daily limit 2 salmon; minimum length 12 inches.

(iii) Release wild Chinook and wild coho.

((62)) (63) **De Coursey Pond (Pierce County):** Open the fourth Saturday in April through October 31 to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

((63)) (64) **Deer Creek (Mason County):**

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

((64)) (65) **Deer Creek (Snohomish/Skagit counties) (Tributary to the N.F. Stillaguamish) and all tributaries:** Closed waters.

((65)) (66) **Deer Lake (Island County):** Open the fourth Saturday in April through October 31.

((66)) (67) **Deer Lake (Mason County):** Open the fourth Saturday in April through October 31.

((67)) (68) **Deschutes River (Thurston County):**

((a)) From Old Highway 99 Bridge ((near Tumwater to Henderson Boulevard Bridge near Pioneer Park)) upstream:

((i)) (a) Selective gear rules((—except bait is allowed September 1 through October 15)).

((ii)) (b) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

((iii)) (c) Salmon:

((A)) (i) Open July 1 through October 15.

((B)) (ii) Limit 6; no more than 2 adult salmon may be retained.

((C)) (iii) Release coho.

((b)) From Henderson Boulevard Bridge upstream:

(i) Selective gear rules.

(ii) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

(iii) Salmon:

(A) Open July 1 through October 15.

(B) Limit 6; no more than 2 adult salmon may be retained.

(C) Release coho.

((8))) (69) **Devereaux Lake (Mason County):** Open the fourth Saturday in April through October 31.

((69)) (70) **Dewatto River (Mason County):**

(a) From the mouth to Dewatto-Holly Road Bridge:

(i) Open the Saturday before Memorial Day through August 15 and October 1 through October 31.

(ii) Selective gear rules.

(iii) October 1 through October 31: Night closure.

(iv) Game fish: Statewide minimum length/daily limit, except:

(A) Release cutthroat trout and wild rainbow trout.

(B) No steelhead retention.

((v) Salmon:

(A) Open October 1 through October 31.

(B) Limit 2 coho only.)

(b) From Dewatto-Holly Road Bridge upstream:

(i) Selective gear rules.

(ii) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

((70)) (71) **Dogfish Creek (Kitsap County):**

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

((71)) (72) **Don Lake (also known as "Clara Lake") (Mason County):** Open the fourth Saturday in April through October 31.

((72)) (73) **Dosewallips River (Jefferson County):**

(a) From the mouth to Highway 101 Bridge:

(i) Open the Saturday before Memorial Day through August 31.

(ii) Selective gear rules.

(iii) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

(iv) Salmon:

(A) Open November 1 through December 15.

(B) Limit 2 chum only.

(b) From Highway 101 Bridge to Olympic National Park boundary about three-quarters of a mile downstream of the falls:

(i) Open the Saturday before Memorial Day through August 31.

(ii) Selective gear rules.

(iii) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

((73)) (74) **Duckabush River (Jefferson County):**

(a) From the mouth to Mason County PUD #1 overhead distribution line:

(i) Open the Saturday before Memorial Day through August 31.

(ii) Selective gear rules.

(iii) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

(iv) Salmon:

(A) Open November 1 through December 15.

(B) Daily limit 2 chum only.

(b) From Mason County PUD #1 overhead distribution line to the Olympic National Park boundary:

(i) Open the Saturday before Memorial Day through August 31.

(ii) Selective gear rules.

(iii) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

((74)) **(75) Echo Lake (Snohomish County)**: Open the fourth Saturday in April through October 31.

((75)) **(76) Eglon Creek (Kitsap County)**:

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

((76)) **(77) Elson Creek (Thurston County)**: Closed waters.

((77)) **(78) Erie Lake (Skagit County)**: Open the fourth Saturday in April through October 31.

((78)) **(79) Fazon Lake (Whatcom County)**: It is unlawful to fish from any floating device from the first Friday in October through January 27.

((79)) **(80) Finch Creek (Mason County)**: Anglers with disabilities who permanently use a wheelchair and possess a designated harvester companion card may fish from the ADA accessible site at the Hoodsport Salmon Hatchery, so long as those anglers follow all applicable rules of the adjoining waters of Marine Area 12.

((80)) **(81) Finney Creek (Skagit County)**: From the mouth up to the USFS 17 road bridge: Closed waters.

((81)) **(82) Fisher Creek Slough (Skagit County)**: From the mouth to the I-5 Bridge: Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

((82)) **(83) Fortson Mill Pond #2 (Snohomish County)**: Open the fourth Saturday in April through October 31 for juvenile anglers only.

((83)) **(84) Fulton Creek (Mason County)**: From the mouth to falls at river mile 0.8:

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

((84)) **(85) Geneva Lake (King County)**: Open the fourth Saturday in April through October 31.

((85)) **(86) Gibbs Lake (Jefferson County)**:

(a) Selective gear rules.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.

((86)) **(87) Gissberg Pond, North (Snohomish County)**: Open for juvenile anglers only.

((87)) **(88) Goldsborough Creek and tributaries (Mason County)**:

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

((88)) **(89) Goodwin Lake (Snohomish County)**: Chumming is permissible.

((89)) **(90) Goss Lake (Island County)**: Open the fourth Saturday in April through October 31.

((90)) **(91) Gorst Creek (Kitsap County)**:

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

((91)) **(92) Granite Lakes (near Marblemount (Skagit County))**: Game fish: Statewide minimum length/daily limit, except: Release Grayling.

((92)) **(93) Grass Lake (Mason County)**: Open the fourth Saturday in April through October 31.

((93)) **(94) Green (Duwamish) River (King County)**:

(a) From an east-west line extending through the southernmost tip of Harbor Island to ((the First Avenue South Bridge)) ~~Tukwila International Boulevard/Old Highway 99~~:

(i) Open for game fish the Saturday before Memorial Day through July 31.

(ii) Game fish: Statewide minimum length/daily limit, except:

(A) Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

**(B) Release steelhead.**

(iii) In years ending in odd numbers, open for game fish and salmon August 20 through December 31:

(A) Anti-snagging rules.

(B) Night closure.

(C) Daily limit 6 salmon of which no more than 3 may be any combination of adult coho and adult chum.

(I) Release Chinook.

(II) Salmon minimum length 12 inches.

(III) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(iv) In years ending in even numbers, open for game fish and salmon September 1 through December 31:

(A) Anti-snagging rules.

(B) Night closure.

(C) Daily limit 6 salmon of which no more than 3 adults may be retained.

(I) Release Chinook.

(II) Salmon minimum length 12 inches.

(III) Game fish: Statewide minimum length/daily limit, except:

(aa) Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

**(bb) Release steelhead.**

(b) ~~((From the First Avenue South Bridge to Tukwila International Boulevard/Old Highway 99))~~:

(i) Open for game fish the Saturday before Memorial Day through July 31.

(ii) Game fish: ~~Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.~~

(iii) In years ending in odd numbers, open for game fish and salmon August 20 through December 31:

(A) Anti-snagging rules.

(B) Night closure.

(C) Daily limit 6 salmon of which no more than 3 may be any combination of adult coho and adult chum.

- (I) Release Chinook.
- (II) Salmon minimum length 12 inches.
- (III) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.
- (D) In years ending in even numbers, open for game fish and salmon September 1 through December 31:
  - (I) Anti-snagging rules.
  - (II) Night closure.
  - (III) Daily limit 6 salmon of which no more than 3 adults may be retained.
  - (iv) Release Chinook.
  - (v) Salmon minimum length 12 inches.
  - (vi) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.
- (e)) From Tukwila International Boulevard/Old Highway 99 to the ((Interstate 405)) South 212th Street Bridge:
  - (i) Open for game fish the Saturday before Memorial Day through July 31.
  - (ii) Game fish: Statewide minimum length/daily limit, except:
    - (A) Cutthroat trout and wild rainbow trout: Minimum length 14 inches.
    - (B) Release steelhead.
  - (iii) In years ending in odd numbers: Open for salmon and game fish August 20 through December 31:
    - (A) Anti-snagging rules.
    - (B) Night closure.
  - ((iv)) In years ending in odd numbers, open for game fish and salmon August 20 through December 31:
    - (A) Anti-snagging rules.
    - (B) Night closure.)
  - (C) Daily limit 6 salmon of which no more than 3 may be any combination of adult coho and adult chum.
- ((v))) (iv) August 20 through August 31: Release Chinook.
- ((vi))) (v) September 1 through December 31: Only one Chinook may be retained.
  - (A) Salmon minimum length 12 inches.
  - (B) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.
- ((vii))) (vi) In years ending in even numbers, open for game fish and salmon September 1 through December 31:
  - (A) Anti-snagging rules.
  - (B) Night closure.
  - (C) Daily limit 6 salmon ((of which no more than)), up to 3 adults may be retained, of which one may be a Chinook.
- (I) ((Release Chinook).
- ((H))) Salmon: Minimum length 12 inches.
- ((H))) (II) Game fish: Statewide minimum length/daily limit, except:
  - (aa) Cutthroat trout and wild rainbow trout: Minimum length 14 inches.
- ((d)) From the Interstate 405 Bridge to South 277th Street Bridge in Auburn:
  - (i) Open for game fish the Saturday before Memorial Day through July 31.
- (ii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.
- (iii) In years ending in odd numbers, open for game fish and salmon September 1 through December 31:
  - (A) Anti-snagging rules.
  - (B) Night closure.
  - (C) Daily limit 6 salmon of which no more than 3 adults may be retained.
- (I) Release Chinook.
- (II) Salmon: Minimum length 12 inches.

- (D) Game fish: Statewide minimum length/daily limit, except:
- (I) Cutthroat trout and wild rainbow trout: Minimum length 14 inches.
  - ((f)) (II) Release steelhead.
  - (d) From the Auburn-Black Diamond Road Bridge to the mouth of Cristy Creek (at Flaming Geyser State Park):
    - (i) Closed waters within 150 feet of the mouth of Keta (Crisp) Creek.
    - (ii) Open for game fish the Saturday before Memorial Day through September 15.
    - (iii) Game fish: Statewide minimum length/daily limit, except:
      - (A) Cutthroat trout and wild rainbow trout: Minimum length 14 inches.
      - (B) Release steelhead.
      - (iv) Open for game fish and salmon November 1 through December 31:
        - (A) Anti-snagging rules.
        - (B) Night closure.
        - (C) Daily limit 6 salmon of which no more than 3 may be any combination of adult coho and adult chum.
        - (I) Release Chinook.
        - (II) Salmon: Minimum length 12 inches.
  - (D) Game fish: Statewide minimum length/daily limit, except:
    - (I) Cutthroat trout and wild rainbow trout: Minimum length 14 inches.
    - ((g)) (II) Release steelhead.
    - (e) From the mouth of Cristy Creek (at Flaming Geyser State Park) to the water pipeline walk bridge (1/2 mile downstream of Tacoma Headworks Dam):
      - (i) Closed waters within 150 feet of the Palmer Pond outlet rack.
      - (ii) Open for game fish the Saturday before Memorial Day through December 31.
      - (iii) Game fish: Statewide minimum length/daily limit, except:
        - (A) Cutthroat trout and wild rainbow trout: Minimum length 14 inches.
        - ((iii)) (B) Release steelhead.
        - (iv) Open for game fish and salmon November 1 through December 31:
          - (A) Anti-snagging rules.
          - (B) Night closure.
          - (C) Daily limit 6 salmon of which no more than 3 may be any combination of adult coho and adult chum.
          - (I) Release Chinook.
          - (II) Salmon: Minimum length 12 inches.
- ((D)) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.
- (h) ~~From Friday Creek upstream, including all tributaries and their tributaries: Open for game fish the Saturday before Memorial Day through October 31.~~
- ((44)) (95) **Greenwater River (King County):** From the mouth to Greenwater Lakes:
- (a) Open December 1 through last day in February for whitefish only.
  - (b) Whitefish gear rules.

- ((95)) (96) **Grovers Creek (Kitsap County):**
- (a) Selective gear rules.
  - (b) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.
- ((96)) (97) **Hamma Hamma River (Mason County):** From the mouth to 400 feet below the falls:
- (a) Open the Saturday before Memorial Day through August 31.
  - (b) Selective gear rules.
  - (c) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.
- ((97)) (98) **Hancock Lake (King County):** It is unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.
- ((98)) (99) **Harvey Creek (Snohomish County):** Closed waters.
- ((99)) (100) **Haven Lake (Mason County):** Open the fourth Saturday in April through October 31.
- ((100)) (101) **Heart Lake (near Anacortes) (Skagit County):** Open the fourth Saturday in April through October 31.
- ((101)) (102) **Heins Lake (Kitsap County):** Closed waters.
- ((102)) (103) **Hicks Lake (Thurston County):** Open the fourth Saturday in April through October 31.
- ((103)) (104) **Horseshoe Lake (Jefferson County):**
- (a) Selective gear rules.
  - (b) It is unlawful to fish from a floating device equipped with an internal combustion motor.
  - (c) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.
- ((104)) (105) **Horseshoe Lake (Kitsap County):** Open the fourth Saturday in April through October 31.
- ((105)) (106) **Howard Lake (Snohomish County):** Open the fourth Saturday in April through October 31.
- ((106)) (107) **Howell Lake (Mason County):** Open the fourth Saturday in April through October 31.
- ((107)) (108) **Hozomeen Lake (Whatcom County):** It is unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.
- ((108)) (109) **Illahee Creek (Kitsap County):**
- (a) Selective gear rules.
  - (b) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.
- ((109)) (110) **Issaquah Creek (King County):** Open the Saturday before Memorial Day through August 31.
- ((110)) (111) **Jackson Lake (Pierce County):** Open the fourth Saturday in April through October 31.
- ((111)) (112) **Jennings Park Pond (Snohomish County):** Open for juvenile anglers, senior anglers and anglers with a disability who possess a designated harvester companion card.
- ((112)) (113) **Jimmy-come-lately Creek (Clallam County):** From the mouth to the confluence with East Fork. Open the Saturday before Memorial Day through August 31.
- ((113)) (114) **Johns Creek (Mason County):**
- (a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

((114)) **(115) Kendall Creek (Whatcom County)** (**N.F. Nooksack tributary**): From the mouth through the hatchery to the hatchery boundary fence: Closed waters.

((115)) **(116) Kennedy Creek (Mason County)**:

(a) From the mouth to Highway 101 Bridge:  
(i) Open the Saturday before Memorial Day through the last day in February.

(ii) October 1 through December 31:

(A) Anti-snagging rules.  
(B) Night closure.

(iii) ((4)) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

(iv) Salmon:

(A) Open October 1 through November 30.  
(B) Limit 6; no more than 2 adults may be retained.  
(C) Release wild coho.

(b) From Highway 101 Bridge upstream:

(i) Open the Saturday before Memorial Day through October 31.

(ii) Selective gear rules.

(iii) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

(iv) October 1 through October 31:

(A) Anti-snagging rules.  
(B) Night closure.

((116)) **(117) Ki Lake (Snohomish County)**: Open the fourth Saturday in April through October 31.

((117)) **(118) Kings Lake Bog (King County)**: Closed waters.

((118)) **(119) Kitsap Creek (Kitsap County)**:

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

((119)) **(120) Koeneman Lake (Fern Lake) (Kitsap County)**:

(a) Open the fourth Saturday in April through October 31.

(b) Selective gear rules.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) Release all fish.

((120)) **(121) Langlois Lake (King County)**: Open the fourth Saturday in April through October 31.

((121)) **(122) LeBar Creek (Mason County)**: From the mouth to the falls at river mile 1: Closed waters.

((122)) **(123) Lilliwaup River (Mason County)**: From the mouth to 200 feet below the falls:

(a) Open the Saturday before Memorial Day through August 31.

(b) Selective gear rules.

(c) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

((123)) **(124) Limerick Lake (Mason County)**: Open the fourth Saturday in April through October 31.

((124)) **(125) Little Quilcene River (Jefferson County)**: From the mouth to the Little Quilcene River Bridge on Penny Creek Road:

(a) From the mouth to the Highway 101 Bridge: Open the Saturday before Memorial Day through August 31.

(b) Selective gear rules.

(c) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

((125)) **(126) Little Scandia Creek (Kitsap County)**:

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

((126)) **(127) Lone Lake (Island County)**:

(a) Selective gear rules.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Game fish: Statewide minimum length/daily limit, except:

(i) Trout: Daily limit 1; minimum length 18 inches.

(ii) Grass carp: No limit for anglers and bow and arrow fishing.

((127)) **(128) Long's Pond (Thurston County)**: Open for juvenile anglers, senior anglers and anglers with a disability who possess a designated harvester companion card only.

((128)) **(129) Maggie Lake (Mason County)**: Open the fourth Saturday in April through October 31.

((129)) **(130) Malaney Creek (Mason County)**:

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

((130)) **(131) Margaret Lake (King County)**: Open the fourth Saturday in April through October 31.

((131)) **(132) Martha Lake (Alderwood Manor) (Snohomish County)**: Open the fourth Saturday in April through October 31.

((132)) **(133) Martha Lake (Warm Beach) (Snohomish County)**:

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2; minimum length 14 inches.

((133)) **(134) Mashel River (Pierce County)**: Closed waters.

((134)) **(135) McAllister Creek (Thurston County)**:

(a) Open the Saturday before Memorial Day through November 30.

(b) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(c) Salmon:

(i) Open July 1 through November 30.

(ii) Limit 6; of which no more than 2 may be adults.

(iii) Release coho, chum, and wild Chinook.

((135)) **(136) McLane Creek (Thurston County)**:

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

(c) Night closure.

((136)) **(137) McMurray Lake (Skagit County)**: Open the fourth Saturday in April through October 31. Landlocked salmon rules.

((137)) **(138) Melbourne Lake (Mason County)**: Open the fourth Saturday in April through October 31.

**((138)) (139) Mill Creek (Mason County):**

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2; minimum length 14 inches.

**((139)) (140) Mill Pond (Auburn) (King County):**

Open for juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

**((140)) (141) Minter Creek (Pierce/Kitsap counties):** From the mouth to the fishing boundary markers approximately 50 feet downstream of the hatchery rack:(a) Open for salmon ((November 1)) October 16 through December ((34)) 15.

(b) Night closure.

(c) Anti-snagging rule.(d) Daily limit ((4 chum; release all other salmon)) 6; no more than 2 adult salmon may be retained. Release Chinook and wild coho.**((141)) (142) Mission Lake (Kitsap County):** Open the fourth Saturday in April through October 31.**((142)) (143) Monte Cristo Lake (Snohomish County):**

(a) Open June 1 through August 31.

(b) Selective gear rules.

(c) Release all fish except hatchery steelhead.

**((143)) (144) Mud Lake (Mason County):** Open the fourth Saturday in April through October 31.**((144)) (145) Munn Lake (Thurston County):**

(a) Selective gear rules.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Release all fish.

**((145)) (146) Nisqually River (Pierce County):**

(a) From the mouth to Military Tank Crossing Bridge:

(i) Anti-snagging rules.

(ii) Night closure.

(iii) Barbless hooks are required.

(iv) Open July 1 through ((November 15)) September 30.

(v) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

(vi) Salmon: Open July 1 through ((November 15)) October 1: Closed Sundays.

(A) Daily limit 6; no more than 2 adults may be retained.

(B) Release coho, chum, and wild Chinook ((and chum)).

(b) From Military Tank Crossing Bridge to 400 feet below La Grande Powerhouse:

(i) Open the Saturday before Memorial Day through October 31.

(ii) Selective gear rules.

(iii) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

**((146)) (147) Nisqually River tributaries downstream of Alder Dam not otherwise listed (Pierce County):**

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

**((147)) (148) Nooksack River (Whatcom County):**

(a) From the Lummi Indian Reservation boundary to the yellow marker at the FFA High School barn at Deming:

(i) Open the Saturday before Memorial Day through January 31.

(ii) From the Saturday before Memorial Day through November 30:

(A) Anti-snagging rules.

(B) Night closure.

(iii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(iv) Salmon:

(A) Open September 1 through December 31:

(I) Daily limit 2, plus 2 additional hatchery coho((; release wild coho)).

(II) Release wild Chinook September 1 through September 30.

(B) In odd-numbered years, open July 16 through August 31:

(I) Daily limit 4 pink salmon.

(II) It is unlawful to use bait.

(III) It is unlawful to use anything other than single-point barbless hooks measuring 1/2 inch or less from point to shank.

(b) From the yellow marker at the FFA High School barn in Deming to the confluence of the forks:

(i) Open from October 1 through January 31.

(ii) October 1 through November 30:

(A) Anti-snagging rules.

(B) Night closure.

(iii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(iv) Salmon:

(A) Open October 1 through December 31:

(B) Daily limit 2, plus anglers may retain 2 additional hatchery coho.

~~((C)) Release wild coho and wild Chinook.~~**((148)) (149) Nooksack River, North Fork (Whatcom County):**(a) From the mouth to ((Maple Creek)) the Highway 9 bridge: Closed waters.(b) From the Highway 9 bridge to Maple Creek:

(i) Open the Saturday before Memorial Day through February 15.

(ii) From the Saturday before Memorial Day through November 30:

(A) Anti-snagging rules.

(B) Night closure.

(iii) November 1 through February 15: It is unlawful to fish from a floating device equipped with a motor.

(iv) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(v) Salmon:

(A) Open October 1 through November 30.

(B) Daily limit 2 salmon, plus anglers may retain 2 additional hatchery coho((; release wild coho)).

((4b)) (c) From Maple Creek to Nooksack Falls:

(i) Open the Saturday before Memorial Day through January 31.

(ii) Selective gear rules.

(iii) November 1 through January 31: It is unlawful to fish from a floating device equipped with a motor.

(iv) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

((449)) (150) **Nooksack River, Middle Fork (Whatcom County)**: From the mouth to the city of Bellingham diversion dam:

(a) November 1 through January 31: It is unlawful to use motors.

(b) Open the Saturday before Memorial Day through January 31.

(c) Selective gear rules.

(d) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

((450)) (151) **Nooksack River, South Fork (Skagit/Whatcom counties)**:

(a) From the mouth to Skookum Creek:

(i) Open October 1 through January 31.

(ii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(iii) Only one single-point hook allowed.

(iv) From October 1 through November 30: Night closure.

(v) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(vi) Salmon open October 1 through December 31:

(A) Daily limit 2; plus anglers may retain 4 additional hatchery coho.

(B) Release chum ((and wild coho)).

(C) Release wild Chinook October 1 through October 15.

(b) From Skookum Creek upstream to Wanlick Creek: Closed waters.

(c) Upstream from and including Wanlick Creek, including all tributaries:

(i) Open the Saturday before Memorial Day through October 31 for fly fishing only.

(ii) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

((451)) (152) **North Lake (King County)**: Open the fourth Saturday in April through October 31.

((452)) (153) **Northern State Hospital Pond (Skagit County)**: Open for juvenile anglers only.

((453)) (154) **Olalla Creek (Kitsap County)**:

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

((454)) (155) **Old Fishing Hole Pond (Kent, King County)**: Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card.

((455)) (156) **Osborne Lake (Mason County)**: Open the fourth Saturday in April through October 31.

((456)) (157) **Padden Lake (Whatcom County)**: Open the fourth Saturday in April through October 31.

((457)) (158) **Panther Lake (Kitsap/Mason counties)**: Open the fourth Saturday in April through October 31.

((458)) (159) **Pass Lake (Skagit County)**:

(a) Fly fishing only.

(b) All motors prohibited.

(c) Release all fish.

((459)) (160) **Perry Creek (Thurston County)**: From the mouth to the falls:

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

((460)) (161) **Phillips Lake (Mason County)**: Open the fourth Saturday in April through October 31.

((461)) (162) **Pilchuck Creek (Snohomish County)**: From the mouth to the Pilchuck Falls:

(a) Open the Saturday before Memorial Day through January 31.

(b) From the Saturday before Memorial Day through November 30; selective gear rules.

(c) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

((462)) (163) **Pilchuck River (Snohomish County)**:

(a) From the mouth to 500 feet downstream from the Snohomish City diversion dam:

(i) Open from December 1 through January 31.

(ii) It is unlawful to fish from any floating device.

(iii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(b) From 500 feet downstream from the Snohomish City diversion dam upstream: Closed waters.

((463)) (164) **Pine Lake (King County)**: Open the fourth Saturday in April through October 31.

((464)) (165) **Pioneer Ponds (tributary to Stillaguamish River) (Snohomish County)**: Closed waters.

((465)) (166) **Pipers Creek (King County) and tributaries**: Closed waters.

((466)) (167) **Portage Creek (Snohomish County)**: Closed waters.

((467)) (168) **Prices Lake (Mason County)**:

(a) Selective gear rules.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Release all fish.

((468)) (169) **Puyallup River (Pierce County)**:

(a) From the 11th Street Bridge to Carbon River:

(i) Open for game fish August 15 through December 31.

(ii) Closed waters within 400 feet of the mouth of Clarks Creek.

(iii) From August 15 through August 31 all waters closed Sundays.

(iv) From September 1 through October 31 all waters closed Sundays, Mondays, and Tuesdays.

(v) August 15 through November 30:

(A) Anti-snagging rules.

- (B) Night closure.
- (C) Barbless hooks are required.
- ((+vi)) (vi) Game fish: statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.
- ((+vii)) (vii) Salmon:
  - (A) Open August 15 through December 31.
  - (B) Daily limit 6. No more than 2 adults may be retained.
  - ((+C)) (C) Release wild ((adult)) coho and wild Chinook.
    - (b) From Carbon River upstream:
      - (i) Open the Saturday before Memorial Day through January 15.
      - (ii) Selective gear rules.
      - (iii) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.
    - ((+69)) (170) **Raging River (King County):** From the mouth to the Highway 18 Bridge:
      - (a) Open the Saturday before Memorial Day through January 31.
      - (b) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.
  - ((+70)) (171) **Rapjohn Lake (Pierce County):** Open the fourth Saturday in April through October 31.
  - ((+71)) (172) **Rattlesnake Lake (King County):**
    - (a) Selective gear rules.
    - (b) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2; minimum length 14 inches.
  - ((+72)) (173) **Ravensdale Lake (King County):**
    - (a) Selective gear rules.
    - (b) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2; minimum length 14 inches.
  - ((+73)) (174) **Riley Lake (Snohomish County):** Open the fourth Saturday in April through October 31.
  - ((+74)) (175) **Robbins Lake (Mason County):** Open the fourth Saturday in April through October 31.
  - ((+75)) (176) **Rocky Creek (Mason County):**
    - (a) Selective gear rules.
    - (b) Game fish: Statewide minimum length/daily limit, except: Release cutthroat and wild rainbow trout.
  - ((+76)) (177) **Roesiger Lake (Snohomish County):** Game fish: statewide minimum length/daily limit, except: Crappie: Daily limit 10; minimum length 9 inches.
  - ((+77)) (178) **Ross Lake (Reservoir) (Whatcom County):**
    - (a) Open July 1 through October 31.
    - (b) Selective gear rules.
    - (c) Game fish: Statewide minimum length/daily limit, except:
      - (i) Trout except eastern brook trout: Daily limit 1; minimum length 16 inches.
      - (ii) Eastern brook trout: Daily limit 5; no minimum size.
  - ((+78)) (179) **Ross Lake tributary streams, and their tributaries, except Big Beaver Creek and Ruby Creek (Whatcom County):**
    - (a) From mouth to one mile upstream: Closed waters.
    - (b) From one mile above the mouths to the headwaters: Open July 1 through October 31.
  - ((+79)) (180) **Ruby Creek (Whatcom County):** Closed waters.

- ((+180)) (181) **Ruby Creek tributaries (Whatcom County):** Open July 1 through October 31.
- ((+181)) (182) **Salmon Creek and all forks (Jefferson/Clallam counties):** Closed waters.
- ((+182)) (183) **Salmonberry Creek (Kitsap County):**
  - (a) Selective gear rules.
  - (b) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.
- ((+183)) (184) **Samish Lake (Whatcom County):** Game fish: Statewide minimum length/daily limit, except: Cutthroat trout: Daily limit 2; minimum length 14 inches.
- ((+184)) (185) **Samish River (Skagit County):**
  - (a) From the mouth to the I-5 Bridge:
    - (i) Open the Saturday before Memorial Day through November 30.
    - (ii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.
    - (iii) From August 1 through November 30:
    - (A) Night closure.
    - (B) It is unlawful to use anything other than one single-point hook.
    - (iv) From December 1 through December 31: Selective gear rules.
    - (v) Salmon:
      - (A) Open August 1 through ((November 30)) October 31.
      - (B) Daily limit 2; anglers may only retain fish hooked inside the mouth.
      - (C) Release wild coho.
      - (b) From the I-5 Bridge to the Old Highway 99 Bridge:
        - (i) Closed waters from the Old Highway 99 Bridge to the WDFW salmon rack.
        - (ii) Open the Saturday before Memorial Day through August 30.
        - (iii) Selective gear rules.
        - (iv) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.
        - (c) From the WDFW hatchery rack to Hickson Bridge:
          - (i) Open the Saturday before Memorial Day through November 30.
          - (ii) Selective gear rules.
          - (iii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.
      - ((+185)) (186) **Sammamish Lake (King County):**
        - (a) Closed waters within 100 yards of the mouth of Issaquah Creek August 16 through November 30.
        - (b) Game fish: Statewide minimum length/daily limit, except: Release all kokanee.
        - (c) December 1 through June 30: Release all steelhead and rainbow trout over 20 inches in length.
        - (d) Landlocked salmon rules apply for December 1 through May 31. Hatchery coho only may be retained as part of the trout daily limit under the landlocked salmon rules, minimum length 12 inches.
        - (e) Open for salmon from October 1 through November 30.

- (i) Salmon: Daily limit 4 coho only.
- (ii) Release Chinook and sockeye.

((186)) **(187) Sammamish River (Slough) (King County)**: From the 68th Avenue N.E. Bridge to Lake Sammamish:

- (a) Open from January 1 through August 31.
- (b) Selective gear rules.
- (c) It is unlawful to fish from a floating device equipped with an internal combustion motor.
- (d) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

((187)) **(188) Sandyshore Lake (Jefferson County)**: Open the fourth Saturday in April through October 31.

((188)) **(189) Sauk River (Skagit/Snohomish counties)**:

- (a) Selective gear rules.
- (b) Release all fish except hatchery steelhead.
- (c) From the mouth to Darrington Bridge:
  - (i) Open June 1 through January 31.
  - (ii) It is unlawful to fish from a floating device equipped with an internal combustion motor.
  - (d) From Darrington Bridge to the mouth of the White Chuck River: Open June 1 through January 31.
  - (e) From the Whitechuck River to the headwaters, including the North Fork from mouth to North Forks Falls and the South Fork from mouth to Elliot Creek: Open June 1 through October 31.
  - (f) In the South Fork upstream from Elliot Creek: Open June 1 through August 31.

((189)) **(190) Sawyer Lake (King County)**: Chumming is permissible.

((190)) **(191) Schneider Creek (Thurston County)**:

- (a) Selective gear rules.
  - (b) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.
- ((191)) **(192) Serene Lake (Snohomish County)**: Open the fourth Saturday in April through October 31.
- ((192)) **(193) Shady Lake (King County)**: Open the fourth Saturday in April through October 31.

((193)) **(194) Shannon, Lake (Skagit County)**:

- (a) Open the fourth Saturday in April through October 31.
- (b) Chumming is permissible.
- (c) Game fish: Statewide minimum length/daily limit, except: Kokanee: Minimum length 8 inches.

((194)) **(195) Shelton Creek (Mason County)**:

- (a) Selective gear rules.
- (b) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

((195)) **(196) Sherwood Creek (Mason County)**:

- (a) Selective gear rules.
- (b) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

((196)) **(197) Sherwood Creek Mill Pond (Mason County)**: Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2; minimum length 14 inches.

((197)) **(198) Shoe Lake (Mason County)**: Open the fourth Saturday in April through October 31.

((198)) **(199) Silent Lake (Jefferson County)**: Open the fourth Saturday in April through October 31.

((199)) **(200) Silver Lake (Pierce County)**: Open the fourth Saturday in April through October 31.

((200)) **(201) Silver Lake (Whatcom County)**: Open the fourth Saturday in April through October 31.

((201)) **(202) Sixteen Lake (Skagit County)**: Open the fourth Saturday in April through October 31.

((202)) **(203) Skagit River (Skagit/Whatcom counties)**:

(a) From the mouth to Highway 530 Bridge at Rockport: Game fish: Statewide minimum length/daily limit, except:

- (i) Cutthroat trout and wild rainbow trout: Minimum length 14 inches.
- (ii) Dolly Varden/Bull Trout: Minimum length of 20 inches as part of the trout limit.

(b) From the mouth to the Memorial Highway Bridge (Highway 536 at Mt. Vernon):

(i) Open March 1 through January 31.

(ii) March 1 through ((July 15)) August 31:

(A) Selective gear rule except anglers fishing for sturgeon must use bait.

(B) It is unlawful to use hooks other than those measuring 1/2 inch or less from point to shank, except anglers fishing for sturgeon may use single-point barbless hooks of any size.

(iii) Salmon:

(A) Open September 1 through December 31.

(B) Daily limit 2 adult salmon, release Chinook and chum.

(c) From Memorial Highway Bridge (Highway 536 at Mt. Vernon) upstream to Gilligan Creek:

(i) Open June 1 through January 31.

(A) Night closure: June 1 through July 15.

(B) From June 1 through June ((10:)) 15 and July 16 through August 31.

(I) Selective gear rules except for sturgeon.

(II) It is unlawful to use hooks other than those measuring 1/2 inch or less from point to shank, except anglers fishing for sturgeon may use single-point barbless hooks of any size.

(ii) Salmon:

(A) Open June ((11)) 16 through July 15((; daily limit 3 sockeye only)).

(B) Daily limit 3 sockeye only.

(I) Open September 1 through December 31.

(II) Daily limit 2 adult salmon, release Chinook and chum.

(d) From Gilligan Creek to The Dalles Bridge at Concrete:

(i) Open June 1 through January 31.

(ii) From June 1 through ((July 15)) August 31:

(A) Selective gear rules.

(B) It is unlawful to use hooks other than those measuring 1/2 inch or less from point to shank.

(C) Night closure.

(iii) Salmon:

(A) Open September 1 through December 31.

(B) Daily limit 2 adult salmon, release Chinook and chum.

(e) From The Dalles Bridge at Concrete to the Highway 530 Bridge at Rockport:

(i) Open June 1 through January 31.

(ii) June 1 through ((July 15)) August 31: Closed waters between a line projected across the thread of the river 200 feet above the east bank of the Baker River to a line projected across the thread of the river 200 feet below the west bank of the Baker River.

(iii) June 1 through ((July 15)) August 31:

(A) Night closure.

(B) Selective gear rules.

(C) It is unlawful to use hooks other than those measuring 1/2 inch or less from point to shank.

(iv) Salmon:

(A) Open September 1 through December 31.

(B) Daily limit 2 adult salmon, release Chinook and chum.

(f) From the Highway 530 Bridge at Rockport to the Cascade River Road (Marblemount Bridge):

(i) Open June 1 through January 31:

(A) June 1 through July 15; anti-snagging rules.

(B) June 1 through July 15; night closure.

(C) July 16 through August 31: Selective gear rules and it is unlawful to use hooks other than those measuring 1/2 inch or less from point to shank.

(ii) Salmon:

(A) Open June 1 through July 15((÷

(A))).

(B) Daily limit 4 hatchery Chinook only.

((B)) (C) Only 2 adult hatchery Chinook may be retained as part of the limit.

(D) Open September 1 through December 31.

(E) Daily limit 2 adult salmon, release Chinook and chum.

(g) From Cascade River Road to the Gorge Powerhouse:

(i) Open June 1 through January 31.

(ii) Selective gear rules.

(iii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iv) Release all fish except hatchery steelhead.

((203)) (204) Skokomish River (Mason County):

(a) From the mouth to the city of Tacoma PUD overhead distribution lines: Closed waters.

(b) From the city of Tacoma PUD overhead distribution lines to the Bonneville Transmission lines west of Highway 101: Closed waters.

(c) From the Bonneville Transmission lines west of Highway 101 to the forks:

(i) Selective gear rules.

(ii) Game fish: Statewide minimum length/daily limit, except: Release steelhead, cutthroat trout, and wild rainbow trout.

((204)) (205) Skokomish River, North Fork (Mason County):

(a) From the mouth to the lower dam:

(i) Selective gear rules.

(ii) Game fish: Statewide minimum length/daily limit, except: Release steelhead, cutthroat trout, and wild rainbow trout.

(b) Above Lake Cushman, from the mouth to Olympic National Park boundary:

(i) Open the Saturday before Memorial Day through August 31.

(ii) Selective gear rules.

(iii) Release all fish.

((205)) (206) Skokomish River, South Fork (Mason County):

(a) From the mouth to the mouth of LeBar Creek:

(i) Selective gear rules.

(ii) Game fish: Statewide minimum length/daily limit, except: Release steelhead, cutthroat trout, and wild rainbow trout.

(b) From LeBar Creek to Rule Creek: Closed waters.

((206)) (207) Skookum Creek (Mason County):

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

((207)) (208) Skykomish River (Snohomish County):

(a) Game fish: Statewide minimum length/daily limit, except:

(i) Cutthroat trout((;)) and wild rainbow trout: Minimum length 14 inches.

(ii) Dolly Varden/Bull trout: Minimum length of 20 inches as part of the trout limit.

(b) From the mouth to the mouth of Wallace River:

(i) Open the Saturday before Memorial Day through January 31.

(ii) From August 1 through November 30:

(A) Anti-snagging rules.

(B) Night closure.

(iii) From November 1 through January 31: It is unlawful to fish from any floating device from the boat ramp below Lewis Street Bridge at Monroe downstream 2,500 feet.

(iv) Salmon:

(A) Open ((the Saturday before Memorial Day)) June 1 through July 31: Limit 4 hatchery Chinook; no more than 2 of which may be adults.

(B) For years ending in odd numbers:

(I) Open August 16 through December 31 from the mouth to Lewis Street Bridge in Monroe.

(II) Open September 1 through December 31 from the Lewis Street Bridge to Wallace River.

(III) Daily limit 3 salmon; release Chinook and chum.

(C) For years ending in even numbers: Open September 16 through November 15: Limit 2, release Chinook and chum.

(c) From the mouth of the Wallace River to the forks:

(i) Open the Saturday before Memorial Day through February 15.

(ii) From August 1 through November 30:

(A) Anti-snagging rules.

(B) Night closure.

(iii) From the Saturday before Memorial Day through February 15: It is unlawful to fish from any floating device in the area 1,500 feet upstream and 1,000 feet downstream of the outlet at Reiter Ponds.

(iv) Salmon: For years ending in odd numbers:

(A) Open September 1 through December 31.

(B) Daily limit 3 salmon; release Chinook and chum.  
 ((208)) (v) Salmon: For years ending in even numbers:

(A) Open September 16 to November 15.

(B) Daily limit 2 salmon; release Chinook and chum.

(209) Skykomish River, North Fork (Snohomish County):

(a) From the mouth to 1,000 feet downstream of Bear Creek Falls:

(i) Open the Saturday before Memorial Day through January 31.

(ii) Selective gear rules.

(iii) Release all fish except hatchery steelhead.

(b) From 1000 feet downstream of Bear Creek Falls to Deer Falls and all tributaries: Closed waters.

((209)) (210) Skykomish River, South Fork (King/Snohomish counties):

(a) From the mouth to 600 feet downstream from the Sunset Falls fishway:

(i) Open the Saturday before Memorial Day through January 31.

(ii) From August 1 through November 30:

(A) Anti-snagging rules.

(B) Night closure.

(iii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(b) From 600 feet downstream of Sunset Falls fishway to Sunset Falls: Closed waters.

(c) From Sunset Falls to the source:

(i) Open the Saturday before Memorial Day through the last day in February.

(ii) From the Saturday before Memorial Day through November 30: Selective gear rules.

(iii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(d) All tributaries and their tributaries above Sunset Falls:

(i) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(ii) Selective gear rules.

((210)) (211) Snohomish River (Snohomish County):

(a) From the Burlington-Northern Railroad bridges to Highway 9 Bridge, including all channels, sloughs, and interconnected waterways, but excluding all tributaries:

(i) Sturgeon catch and release is permissible year-round.

(ii) August 1 through November 30:

(A) Anti-snagging rules; except anglers fishing for sturgeon may use single-point barbless hooks of any size.

(B) Night closure.

(iii) Open the Saturday before Memorial Day through January 31.

(iv) Game fish: Statewide minimum length/daily limit, except:

(A) Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(B) Dolly Varden/Bull trout: Minimum length of 20 inches as part of the trout limit.

(v) Salmon, for years ending in odd numbers:

(A) Open August 1 through December 31.

(B) Daily limit 3 salmon; release Chinook and chum.

(vi) Salmon, for years ending in even numbers:

(A) Open September 15 through November 15.

(B) Daily limit 2, release Chinook and chum.

(b) From the Highway 9 Bridge to the confluence of the Skykomish and Snoqualmie rivers and all channels:

(i) Open the Saturday before Memorial Day through January 31.

(ii) August 1 through November 30:

(A) Anti-snagging rules.

(B) Night closure.

(iii) Game fish: Statewide minimum length/daily limit, except:

(A) Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(B) Dolly Varden/Bull trout: Minimum length of 20 inches as part of the trout limit.

(iv) Salmon, for years ending in odd numbers:

(A) Open August 16 through December 31.

(B) Limit 3; release Chinook and chum.

((211)) (v) Salmon, for years ending in even numbers:

(A) Open September 15 through November 15.

(B) Daily limit 2, release Chinook and chum.

(212) Snoqualmie River (King County):

(a) From the mouth to Snoqualmie Falls:

(i) From the Saturday before Memorial Day through November 30: Selective gear rules.

(ii) From September 1 through November 30: Night closure.

(iii) From the mouth to the boat ramp at the Plum access: Open the Saturday before Memorial Day through January 31.

(iv) From the boat ramp at the Plum access to the falls: Open the Saturday before Memorial Day through February 15.

(v) From November 1 through February 15: It is unlawful to fish from any floating device in the waters from the boat ramp at the Plum access to the mouth of Tokul Creek (about 1/4 mile).

(vi) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(vii) Salmon, for years ending in odd numbers:

(A) Open September 1 through December 31.

(B) Daily limit 3 salmon; release Chinook and chum.

(viii) Salmon, for years ending in even numbers:

(A) Open September 15 through November 15.

(B) Daily limit 2, release Chinook and chum.

(b) From Snoqualmie Falls upstream, including the North Fork, South Fork, all tributaries except Middle Fork and tributaries to the Middle Fork:

(i) Selective gear rules.

(ii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iii) Open the Saturday before Memorial Day through October 31.

(iv) Open November 1 through the Friday before Memorial Day: Release all fish.

(c) Middle Fork from the mouth to the source, including all tributaries:

- (i) Open year-round.
- (ii) Selective gear rules.

(iii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

- (iv) Release all fish.

((212)) (213) **South Prairie Creek (Pierce County):** From the mouth to the city of Buckley diversion dam: Closed waters.

((213)) (214) **Spada Lake (Reservoir) (Snohomish County):**

(a) Open the fourth Saturday in April through October 31.

- (b) Selective gear rules.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 5; maximum length 12 inches.

((214)) (215) **Spada Lake (Reservoir) tributaries (Snohomish County):** Closed waters.

((215)) (216) **Spanaway Lake and Spanaway Lake outlet downstream to the dam (approximately 800 feet) (Pierce County):** Open year-round.

((216)) (217) **Squalicum Lake (Whatcom County):**

- (a) Fly fishing only.

- (b) All motors prohibited.

(c) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2; minimum length 14 inches.

((217)) (218) **Squire Creek (Snohomish County) (N.F. Stillaguamish River tributary):**

(a) Open the Saturday before Memorial Day through July 31.

- (b) Selective gear rules.

((4)) (c) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

((218)) (219) **Steel Lake (King County):** Open the fourth Saturday in April through October 31.

((219)) (220) **Stetattle Creek (Whatcom County):** From the mouth to Bucket Creek: Closed waters.

((220)) (221) **Stevens, Lake (Snohomish County):** Chumming is permissible.

((221)) (222) **Steves Lake (Stevens Lake) (Mason County):** Open the fourth Saturday in April through October 31.

((222)) (223) **Stickney Lake (Snohomish County):** Open the fourth Saturday in April through October 31.

((223)) (224) **Stillaguamish River (Snohomish County):**

(a) From the mouth to Marine Drive, including all sloughs:

- (i) Open year-round.

- (ii) Night closure.

(iii) From August 1 through November 30: Anti-snagging rules, except anglers fishing for sturgeon may use single-point barbless hooks of any size.

(iv) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(b) From Marine Drive to the forks:

(i) From the barrier dam (downstream of I-5) downstream 200 feet: Closed waters.

(ii) Open ((the Saturday before Memorial Day)) August 1 through November 30.

- (A) Selective gear rules.

- (B) Night closure.

- (C) Release all fish except hatchery steelhead.

(iii) Open from December 1 through January 31. Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

((224)) (225) **Stillaguamish River, North Fork (Snohomish County):**

(a) From the North Fork mouth to the mouth of French Creek:

(i) It is unlawful to fish from any floating device upstream of the Highway 530 Bridge at mile post 28.8 (Cicero Bridge).

(ii) It is unlawful to fish from any floating device equipped with a motor downstream from the Highway 530 Bridge.

(iii) Open the Saturday before Memorial Day through June 30 and October 16 through November 30:

- (A) Fly fishing only.

(B) From ((August 1)) October 16 through November 30; night closure.

- (C) Release all fish except hatchery steelhead.

(iv) Open from December 1 through January 31. Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(b) From the mouth of French Creek to Swede Heaven Bridge:

(i) From ((August 1)) October 16 through November 30:

- (A) Night closure.

- (B) Anti-snagging rules.

(ii) Open the Saturday before Memorial Day through June 30 and October 16 through November 30:

- (A) Fly fishing only.

- (B) Release all fish except hatchery steelhead.

(iii) Open from December 1 through February 15. Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(c) From Swede Heaven Bridge to North Forks Falls approximately one mile upstream of Cascade Creek:

(i) Open from Saturday before Memorial Day through July 31 and October 16 through November 30.

- (ii) Selective gear rules.

((4)) (iii) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

((225)) (226) **Stillaguamish River, South Fork (Snohomish County):**

(a) From the mouth to 400 feet downstream of the outlet to Granite Falls fishway:

(i) Open the Saturday before Memorial Day through January 31.

- (ii) From August 1 through November 30:

- (A) Anti-snagging rules.

(B) Night closure.

(iii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(b) From 400 feet below the Granite Falls Fishway to the Mountain Loop Highway Bridge above Granite Falls: Closed waters.

(c) From the Mountain Loop Highway Bridge above Granite Falls upstream to the source: ((~~From August 1 through October 31~~))

(i) Open Saturday before Memorial Day through November 30.

(ii) From August 1 through November 30:

((i))) (A) Anti-snagging rules.

((ii))) (B) Night closure.

((226)) (227) **Storm Lake (Snohomish County):** Open the fourth Saturday in April through October 31.

((227)) (228) **Suiattle River (Skagit/Snohomish County):**

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Dolly Varden/Bull trout: Minimum length of 20 inches as part of trout limit.

((228)) (229) **Sultan River (Snohomish County):** From the mouth to a point 400 feet downstream from the diversion dam at river mile 9.7:

(a) Open the Saturday before Memorial Day through January 31.

(b) Game fish: Statewide minimum length/daily limit, except:

(i) Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(ii) Dolly Varden/Bull trout: Minimum length of 20 inches as part of the trout limit.

((229)) (230) **Sultan River; North Fork (Snohomish County):** Closed waters.

((230)) (231) **Sultan River; South Fork (Snohomish County):** Closed waters.

((231)) (232) **Summit Lake (Thurston County):** Open the fourth Saturday in April through October 31.

((232)) (233) **Susan Lake (Thurston County):**

(a) Selective gear rules.

(b) Release all fish.

((233)) (234) **Swan's Mill Pond (Stossel Creek (King County):** Open the Saturday before Memorial Day through October 31.

((234)) (235) **Symington Lake (Kitsap County):**

(a) Open the fourth Saturday in April through October 31.

(b) Selective gear rules.

(c) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

((235)) (236) **Tahuya River (Mason County):**

(a) From the mouth to the Belfair Tahuya Road Bridge:

(i) Open the Saturday before Memorial Day through August 15.

(ii) Selective gear rules.

(iii) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

(b) From the Belfair Tahuya Road Bridge upstream: Selective gear rules.

((236)) (237) **Tanwax Lake (Pierce County):** Game fish: Statewide minimum length/daily limit, except: Crappie: Daily limit 10; minimum length 9 inches.

((237)) (238) **Tapps Lake (Reservoir) and Tapps Lake (Reservoir) intake canal (Pierce County), to within 400 feet of the screen at Dingle Basin:** Open year-round.

((238)) (239) **Tarboo Creek (Jefferson County):**

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

((239)) (240) **Tarboo Lake (Jefferson County):**

(a) Open the fourth Saturday in April through October 31.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

((240)) (241) **Teal Lake (Jefferson County):**

(a) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(b) Selective gear rules.

(c) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.

((241)) (242) **Tenas Lake (Mason County):** Open the fourth Saturday in April through October 31.

((242)) (243) **Tenant Lake (Whatcom County):** It is unlawful to fish from any floating device from the first Friday in October through January 27.

((243)) (244) **Terrell, Lake (Whatcom County):** It is unlawful to fish from any floating device from the first Saturday after Labor Day through the following Friday and from October 1 through January 31, except fishing from a floating dock is permissible.

((244)) (245) **Thornton Creek (Whatcom County):**

Game fish: Statewide minimum length/daily limit, except: Cutthroat trout: No daily limit; no minimum length.

((245)) (246) **Thornton Lake, lower (Whatcom County):** Game fish: Statewide minimum length/daily limit, except: Cutthroat trout: No daily limit; no minimum length.

((246)) (247) **Tiger Lake (Kitsap/Mason counties):** Open the fourth Saturday in April through October 31.

((247)) (248) **Toad Lake (Whatcom County):** Open the fourth Saturday in April through October 31.

((248)) (249) **Tokul Creek (King County) (Snoqualmie River tributary):**

(a) From the mouth to the Fish Hatchery Road Bridge:

(i) Open December 1 through February 15, except closed waters from 5:00 p.m. to 7:00 a.m.

(ii) Anti-snagging rules.

(iii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(b) From Fish Hatchery Road Bridge to the posted boundary marker located downstream of the diversion dam:

(i) Open January 15 through February 15, except closed waters from 5:00 p.m. to 7:00 a.m.

(ii) Anti-snagging rules.

(iii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(c) From the posted boundary marker downstream of the diversion dam to Tokul Road S.E.: Closed waters.

**((249)) (250) Tolt River (King County):**

(a) From the mouth to the USGS trolley cable near the confluence of the North and South Forks:

(i) Open the Saturday before Memorial Day through January 31.

(ii) Selective gear rules.

(iii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(b) On the North Fork, from the mouth upstream to the falls approximately 1/3 miles above the Northeast North Fork Road Bridge (Pipeline Bridge): Closed waters.

(c) On the North Fork from the falls approximately 1/3 mile above the Northeast North Fork Road Bridge (Pipeline Bridge) upstream, including all tributaries:

(i) Selective gear rules.

(ii) Release all fish.

(d) On the South Fork, from the mouth upstream to the dam: Closed waters.

**((250)) (251) U Lake (Mason County):** Open the fourth Saturday in April through October 31.

**((251)) (252) Uncle John Creek (Mason County):**

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

**((252)) (253) Union River (Mason County):**

(a) From the mouth to the lower bridge on Old Belfair Highway:

(i) Open the Saturday before Memorial Day through August 15.

(ii) Selective gear rules.

(iii) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout and wild rainbow trout.

(b) From the lower bridge on Old Belfair Highway upstream:

(i) Selective gear rules.

(ii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

**((253)) (254) Vogler Lake (Skagit County):**

(a) Fly fishing only.

(b) Release all fish.

**((254)) (255) Wagners Lake (Snohomish County):** Open the fourth Saturday in April through October 31.

**((255)) (256) Walker Lake (King County):** Open the fourth Saturday in April through October 31.

**((256)) (257) Wallace River (Snohomish County):**

(a) From the mouth to 363rd Ave. S.E./Reece Rd:

(i) Open from the Saturday before Memorial Day through February 15.

(ii) From the Saturday before Memorial Day through November 30:

(A) Anti-snagging rules.

(B) Night closure.

(iii) From November 1 through February 15: It is unlawful to fish from any floating device.

(iv) Game fish: Statewide minimum length/daily limit, except:

(A) Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(B) Dolly Varden/Bull trout: Minimum length of 20 inches as part of the trout limit.

(v) Salmon, in years ending in odd numbers:

(A) Open September 16 through November 30 ((in years ending in odd numbers:)).

(B) Daily limit 3 salmon; release Chinook and chum.

(vi) Salmon, in years ending in even numbers:

(A) Open September 16 through November 15.

(B) Daily limit 2 salmon; release Chinook and chum.

(b) From 363rd Avenue S.E./Reece Road to 200 feet upstream of the water intake of the salmon hatchery:

(i) Open September 16 through February 15.

(ii) From September 16 through November 30:

(A) Anti-snagging rules.

(B) Night closure.

(iii) November 1 through February 15: It is unlawful to fish from any floating device.

(iv) Game fish: Statewide minimum length/daily limit, except:

(A) Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(B) Dolly Varden/Bull trout: Minimum length of 20 inches as part of the trout limit.

(v) Salmon, in years ending in odd numbers:

(A) Open September 16 through November 30 ((in years ending in odd numbers:)).

(B) Limit 3 salmon plus 1 additional pink; release Chinook and chum.

(vi) Salmon, in years ending in even numbers:

(A) Open September 16 through November 15.

(B) Daily limit 2 salmon, release Chinook and chum.

(c) From 200 feet downstream of the water intake to 200 feet upstream of the water intake: Closed waters.

(d) From 200 feet upstream of the water intake of the salmon hatchery to Wallace Falls:

(i) Open November 1 through January 31.

(ii) It is unlawful to fish from any floating device.

(iii) Game fish: Statewide minimum length/daily limit, except:

(A) Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(B) Dolly Varden/Bull trout: Minimum length of 20 inches as part of the trout limit.

**((257)) (258) Wapato Lake (Pierce County):** Open to juvenile anglers, senior anglers and anglers with a disability who possess a designated harvester companion card.

**((258)) (259) Washington Lake, including that portion of the Sammamish River from the 68th Avenue N.E. Bridge downstream and Mercer slough (King County):**

(a) Open year-round.

(b) Chumming is permissible.

(c) From July 1 through November 30: Game fish: Statewide minimum length/daily limit, except: Kokanee: Daily

limit 5; minimum length 8 inches; maximum length 18 inches.

(d) December 1 through the last day in February:

(i) Game fish: Statewide minimum length/daily limit, except: Release steelhead and rainbow trout over 20 inches in length.

(ii) Kokanee: Daily limit 5; minimum length 8 inches; maximum length 18 inches.

(e) March 1 through June 30: Game fish: Statewide minimum length/daily limit, except:

(i) Kokanee: Daily limit 5; minimum length 8 inches; maximum length 18 inches.

(ii) Trout: Minimum length 12 inches.

(iii) Release steelhead and rainbow trout over 20 inches in length.

(f) Salmon:

(i) Open September 16 through October 31 north of Highway 520 Bridge and east of Montlake Bridge.

(ii) Daily limit 4 coho only.

**((259)) (260) Washington Lake, Ship Canal (King County) (waters east of a north-south line 400 feet west of the fish ladder at the Chittenden Locks and west of a north-south line at the eastern ends of the concrete abutments east of the Montlake Bridge):**

(a) ((West)) East of the Fremont Bridge: Chumming is permissible.

(b) From the west boundary to a north-south line 400 feet east of the eastern end of the northern wing wall of Chittenden Locks: Closed waters.

(c) From 400 feet east of the eastern end of the northern wing wall of Chittenden Locks to the east boundary:

(i) From July 1 through November 30: Game fish: Statewide minimum length/daily limit, except: Kokanee: Daily limit 5; minimum length 8 inches; maximum length 18 inches.

(ii) December 1 through the last day in February:

(A) Game fish: Statewide minimum length/daily limit, except: Release steelhead and rainbow trout over 20 inches in length.

(B) Kokanee: Daily limit 5; minimum length 8 inches; maximum length 18 inches.

(iii) March 1 through June 30:

(A) Game fish: Statewide minimum length/daily limit, except: Kokanee: Daily limit 5; minimum length 8 inches; maximum length 18 inches.

(B) Trout: Minimum length 12 inches.

(C) Release steelhead and rainbow trout over 20 inches in length.

**((260)) (261) Whatcom Creek (Whatcom County):**

(a) From the mouth to the markers below the footbridge below Dupont Street in Bellingham:

(i) Open the Saturday before Memorial Day through December 31.

(ii) August 1 through December 31:

(A) Anti-snagging rules.

(B) Night closure.

(iii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(iv) Salmon: Open August 1 through December 31.

(A) Daily limit 6; anglers may retain up to 2 adult salmon.

(B) Release wild coho.

(C) Anglers fishing lawfully within 50 yards of the Bellingham Technical College Hatchery Collection Tube and on the hatchery side of the creek that hook and land chum salmon may remove those chum salmon from the water and immediately place them unharmed into the Hatchery Collection Tube.

(b) From the markers below the footbridge below Dupont Street in Bellingham to the footbridge below Dupont Street: Closed waters.

(c) From the footbridge below Dupont Street in Bellingham to the stone bridge at Whatcom Falls Park:

(i) From August 1 through October 31:

(A) Anti-snagging rules.

(B) Night closure.

(ii) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

(d) From the stone bridge at Whatcom Falls Park upstream to Lake Whatcom: Open the fourth Saturday in April through October 31 for juvenile anglers only.

(e) Game fish: Statewide minimum length/daily limit, except: Trout: No minimum length.

**((261)) (262) Whatcom, Lake (Whatcom County):**

(a) The waters between the Electric Avenue Bridge and the outlet dam: Closed waters.

(b) Open the fourth Saturday in April through October 31.

(c) Game fish: Statewide minimum length/daily limit, except: Release all cutthroat trout.

**((262)) (263) Whatcom, Lake, tributaries (Whatcom County):** Closed waters.

**((263)) (264) White (Stuck) River (Pierce County):**

(a) From October 1 through October 31:

(i) Night closure.

(ii) Selective gear rules.

(b) Release all fish.

(c) Cascade Water Alliance canal, including the screen bypass channel above the screen at Dingle Basin: Closed waters.

(d) Whitefish: Open December 1 through the last day in February: Whitefish gear rules.

**((264)) (265) White Chuck River (Snohomish County):**

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Dolly Varden/Bull trout: Minimum length of 20 inches as part of the trout limit.

**((265)) (266) Wildcat Creek (Kitsap County):**

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

**((266)) (267) Wildcat Lake (Kitsap County):** Open the fourth Saturday in April through October 31.

**((267)) (268) Wilderness Lake (King County):**

(a) Open the fourth Saturday in April through October 31.

(b) Landlocked salmon rules.

**((268))) (269) Wilkeson Creek (Pierce County):**

**(South Prairie Creek tributary):** From the mouth to the confluence with Gale Creek: Closed waters.

**((269))) (270) Woodard Creek (Thurston County):**

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

**((270))) (271) Wood Lake (Mason County):** Open the fourth Saturday in April through October 31.

**((271))) (272) Woodland Creek (Thurston County):**

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

**((272))) (273) Wooten Lake (Mason County):** Open the fourth Saturday in April through October 31.

**AMENDATORY SECTION** (Amending WSR 18-06-045, filed 3/1/18, effective 4/1/18)

**WAC 220-312-050 Freshwater exceptions to statewide rules—Eastside. (1) Countywide freshwater exceptions to statewide rules:**

(a) Irrigation canals, wasteways, drains and the inlets and outlets of all lakes, ponds, and reservoirs in Grant and Adams counties (except Crab Creek, Rocky Ford Creek and Ponds, Columbia Basin Hatchery Creek, Bobcat Creek, Coyote Creek, Frenchman Hills Wasteway and Drains, Hays Creek, Red Rock Creek, Sand Hollow Creek, and Lake Lenore inlet and outlet) are open year-round, statewide lake rules apply to all species.

(b) In Adams, Douglas, Franklin, Grant, and Okanogan counties, except Zosel Dam (Okanogan River) and Enloe Dam (Similkameen River): It is permissible to fish up to the base of all dams.

**(2) Aeneas Lake (Okanogan County):**

(a) Open the fourth Saturday in April through October 31.

(b) Fly fishing only.

(c) It is unlawful to fish from a floating device equipped with a motor.

(d) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.

**(3) Ahtanum Creek (Yakima County):** Selective gear rules.

**(4) Ahtanum Creek, North Fork (Yakima County):**

(a) From the Grey Rock Trailhead Bridge crossing upstream to Shellneck Creek: Closed waters.

(b) Selective gear rules.

**(5) Ahtanum Creek, Middle Fork (Yakima County):**

(a) From the A2000 Spur Road Bridge in NE 1/4 of Section 34 upstream to the A2800 Road Bridge at Tree Phones Campground: Closed waters.

(b) Selective gear rules.

**(6) Alta Lake (Okanogan County):** Open the fourth Saturday in April through October 31.

**(7) Amber Lake (Spokane County):**

(a) Selective gear rules.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Open March 1 through November 30.

(d) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.

**(8) American River (Yakima County):**

(a) Selective gear rules.

(b) From the Highway 410 Bridge at river mile 5.4 to the Mesatchee Creek Trail crossing at river mile 15.8: Closed waters from July 16 through September 15.

**(9) Amon Wasteway (Benton County):** Selective gear rules.

**(10) Andrews Creek (tributary to Chewuch River) (Okanogan County):** From the mouth to the falls approximately 0.5 miles upstream: Closed waters.

**(11) Asotin Creek, mainstem and forks (Asotin County):**

(a) Closed waters:

(i) South Fork from mouth upstream.

(ii) North Fork from USFS border upstream.

(b) Game fish: Statewide minimum length/daily limit, except: It is unlawful to fish for steelhead.

(c) Selective gear rules.

**(12) Aspen Lake (Okanogan County):** Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

**(13) Badger Lake (Spokane County):** Open the fourth Saturday in April through September 30.

**(14) Banks Lake (Grant County):**

(a) Chumming is permissible.

(b) Game fish: Statewide minimum length/daily limit, except:

(i) Crappie: Daily limit 10; minimum length 9 inches.

(ii) Yellow perch: Daily limit 25.

**(15) Bayley Lake (Stevens County):**

(a) Inlet stream: Closed waters.

(b) Open the fourth Saturday in April through October 31.

(c) Fly fishing only.

(d) It is unlawful to fish from a floating device equipped with a motor.

(e) Release all fish.

**(16) Bear Creek (tributary to South Fork Tieton River) (Yakima County):** From the mouth to the falls (approximately 0.75 mile): Closed waters.

**(17) Bear Lake (Spokane County):** Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

**(18) Beaver Creek (tributary to Methow River) (Okanogan County):** Closed waters.

**(19) Beaver Lake (Big) (Okanogan County):** Open the fourth Saturday in April through October 31.

**(20) Beaver Lake, (Little):** Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

**(21) Beda Lake (Grant County):**

(a) Selective gear rules.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.

**(22) Beehive (Lake) Reservoir (Chelan County):**

(a) Open the fourth Saturday in April through October 31.

(b) Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

**(23) Beth Lake (Okanogan County):** Open the fourth Saturday in April through October 31.

**(24) Big Four Lake (Columbia County):**

(a) Fly fishing only.

(b) It is unlawful to fish from any floating device.

(c) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2; minimum length 14 inches.

**(25) Big Meadow Lake (Pend Oreille County):**

(a) Open the fourth Saturday in April through October 31.

(b) It is unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.

**(26) Big Twin Lake (Okanogan County):**

(a) Open the fourth Saturday in April through October 31.

(b) Selective gear rules.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.

**(27) Blackbird Island Pond (Chelan County):** Open July 1 through September 30 for juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

**(28) Black Canyon Creek (tributary to Methow River) (Okanogan County):** Closed waters.

**(29) Black Lake (Chelan County):** Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

**(30) Black Lake (Okanogan County):** Selective gear rules.

**(31) Black Lake (Stevens County):** Open the fourth Saturday in April through October 31.

**(32) Blue Lake (Columbia County):** It is unlawful to fish from any floating device.

**(33) Blue Lake (Grant County):** Open the fourth Saturday in April through September 30.

**(34) Blue Lake (near Sinlahekin) (Okanogan County):**

(a) Open the fourth Saturday in April through October 31.

(b) Selective gear rules.

(c) It is unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.

(d) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(e) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.

**(35) Blue Lake (near Wannacut Lake) (Okanogan County):**

(a) Open the fourth Saturday in April through October 31.

(b) Selective gear rules.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1, minimum length 18 inches.

**(36) Bobcat Creek and Ponds (Adams County):** Open the fourth Saturday in April through September 30.

**(37) Bonaparte Creek (Okanogan County):** From the mouth to the falls approximately river mile 1.0: Closed waters.

**(38) Bonaparte Lake (Okanogan County):**

(a) It is unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.

(b) Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

**(39) Boulder Creek and tributaries (Okanogan County):** From the mouth to the barrier falls at river mile 1.0: Closed waters.

**(40) Box Canyon Creek and tributaries (Kittitas County):** From mouth (Kachess Reservoir) upstream approximately 2 miles to the 20 foot high waterfall, including that portion of the creek that flows through the dry lake bed: Closed waters.

**(41) Browns Lake (Pend Oreille County):**

(a) Open the fourth Saturday in April through October 31.

(b) Fly fishing only.

(c) It is unlawful to fish from a floating device equipped with a motor.

**(42) Bumping Lake (Reservoir) (Yakima County):** Chumming is permissible.

**(43) Buckskin Creek and tributaries (Yakima County):** From the mouth to the west boundary of Suntides Golf Course: Closed waters.

**(44) Bumping River (Yakima County):**

(a) It is permissible to fish up to the base of Bumping Dam.

(b) From the mouth to Bumping Reservoir; selective gear rules.

**(45) Burke Lake (Grant County):** Open March 1 through September 30.

**(46) Buttermilk Creek (tributary to Twisp River) (Okanogan County), including tributaries:**

(a) Open the Saturday before Memorial Day through August 15.

(b) Release all fish.

(c) Selective gear rules.

**(47) Buzzard Lake (Okanogan County):**

(a) Open the fourth Saturday in April through October 31.

(b) Selective gear rules.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.

**(48) Caldwell Lake (Pend Oreille County):**

(a) Open the fourth Saturday in April through October 31.

(b) Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

(49) **Caliche Lakes, Upper (Grant County):** Open March 1 through September 30.

(50) **Calispell Creek (Calispell River) (Pend Oreille County):** From the mouth to Calispell Lake: Open year-round.

(51) **Campbell Lake (Okanogan County):**

(a) Selective gear rules.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2; minimum length 14 inches.

(52) **Carl's Lake (Pend Oreille County):** Open the fourth Saturday in April through October 31.

(53) **Cascade Lake (Grant County):** Open March 1 through September 30.

(54) **Cattail Lake (Grant County):** Open the fourth Saturday in April through September 30.

(55) **Cedar Creek (tributary to Early Winters Creek (Okanogan County):**

(a) From the mouth to Cedar Falls:

(i) Open the Saturday before Memorial Day through August 15.

(ii) Selective gear rules.

(iii) Release all fish.

(b) From Cedar Falls upstream including tributaries: Selective gear rules.

(56) **Cedar Lake (Stevens County):** Open the fourth Saturday in April through October 31.

(57) **Chain Lake (Pend Oreille County):**

(a) Open the fourth Saturday in April through October 31.

(b) Game fish: Statewide minimum length/daily limit, except: Release kokanee.

(58) **Chapman Lake (Spokane County):**

(a) Open the fourth Saturday in April through October 31.

(b) Chumming is permissible.

(59) **Chelan Hatchery Creek (Chelan County):** Closed waters.

(60) **Chelan Lake (Chelan County):**

(a) Game fish: Statewide minimum length/daily limit, except: Release wild cutthroat trout.

(b) Salmon: Daily limit 1; minimum length 15 inches.

(c) No catch record card required.

(61) **Chelan Lake tributaries (Chelan County):**

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Release wild cutthroat trout.

(62) **Chelan River (Chelan County):** From the railroad bridge to the Chelan PUD safety barrier below the power house:

(a) July 1 through October 31: Anti-snagging rule and night closure.

(b) Game fish: Statewide minimum length/daily limit, except: Release trout.

(c) Salmon:

(i) Open July 1 through October 31.

(ii) Barbless hooks required.

(iii) Minimum length 12 inches; limit 4; no more than 2 adult hatchery Chinook may be retained.

(iv) Release coho, sockeye, and wild adult Chinook.

(d) From the Chelan PUD safety barrier below the power house upstream to Chelan Lake: Closed waters.

(63) **Chewuch River (Okanogan County):**

(a) From the mouth to Eight Mile Creek:

(i) Open the Saturday before Memorial Day through August 15.

(ii) Selective gear rules.

(iii) Release all fish.

(b) From the mouth to Pasayten Wilderness boundary falls: Whitefish:

(i) Open December 1 through the last day in February for whitefish only.

(ii) Whitefish gear rules.

(64) **Chiwaukum Creek (Chelan County):**

(a) From the mouth to Fool Hen Creek, including Fool Hen Creek and tributaries: Closed waters.

(b) From Fool Hen Creek upstream and tributaries: Selective gear rules.

(65) **Chiwawa River (Chelan County):**

(a) From the mouth to Buck Creek and tributaries not including Buck Creek: Closed waters.

(b) From Buck Creek upstream and tributaries (including Buck Creek): Selective gear rules.

(66) **Chopaka Lake (Okanogan County):**

(a) Open the fourth Saturday in April through October 31.

(b) Fly fishing only.

(c) It is unlawful to fish from a floating device equipped with a motor.

(d) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.

(67) **Chumstick Creek (Chelan County):** Closed waters.

(68) **Clear Lake (Chelan County):**

(a) Open the fourth Saturday in April through October 31.

(b) Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

(69) **Clear Lake (Spokane County):** Open the fourth Saturday in April through October 31.

(70) **Cle Elum Lake (Reservoir) (Kittitas County):** Game fish: Statewide minimum length/daily limit, except: Kokanee: Daily limit 5; minimum length 9 inches and maximum length 15 inches.

(71) **Cle Elum River (Kittitas County):**

(a) From the mouth to Cle Elum Dam:

(i) Open year-round.

(ii) Selective gear rules.

(iii) Game fish: Statewide minimum length/daily limit, except: Release rainbow trout and cutthroat trout.

(iv) It is permissible to fish up to the base of Cle Elum Dam.

(v) Whitefish:

(A) Open December 1 through last day in February for whitefish only.

(B) Whitefish gear rules.

(b) From above Cle Elum Lake to outlet of Hyas Lake: Selective gear rules.

(72) **Cliff Lake (Grant County):** Open March 1 through September 30.

**(73) Coffee Pot Lake (Lincoln County):**

(a) Open March 1 through September 30.

(b) Selective gear rules.

(c) Game fish: Statewide minimum length/daily limit, except:

(i) Trout: Daily limit 1; minimum length 18 inches.

(ii) Crappie: Daily limit 10; minimum length 9 inches.

**(74) Columbia Basin Hatchery Creek (Grant County):**

(a) Open April 1 through September 30 from the hatchery outflow to the confluence with Rocky Coulee Wasteway.

(b) Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

(75) **Columbia Park Pond (Benton County):** Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

(76) **Conconully Lake (Okanogan County):** Open the fourth Saturday in April through October 31.

(77) **Conconully Reservoir (Okanogan County):** Open the fourth Saturday in April through October 31.

(78) **Conger Pond (Pend Oreille County):** Open the fourth Saturday in April through October 31.

**(79) Conner Lake (Okanogan County):**

(a) Open the fourth Saturday in April through October 31.

(b) Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

(80) **Cooper River (Kittitas County):** From the mouth to Cooper Lake: Selective gear rules.

(81) **Coot Lake (Grant County):** Open the fourth Saturday in April through September 30.

(82) **Corral Creek (Benton County):** Selective gear rules.

(83) **Cougar Lake (Pasayten Wilderness) (Okanogan County):** Selective gear rules.

(84) **Cougar Lake (near Winthrop) (Okanogan County):**

(a) Selective gear rules.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2; minimum length 14 inches.

(85) **Cowiche Creek (Yakima County):** Selective gear rules.

(86) **Coyote Creek and Ponds (Adams County):** Open the fourth Saturday in April through September 30.

**(87) Crab Creek (Adams/Grant/Lincoln counties):**

(a) From the mouth to Morgan Lake Road: Open the Saturday before Memorial Day through September 30.

(b) From Morgan Lake Road to O'Sullivan Dam (including Marsh Unit I and II impoundments): Closed waters.

(c) From O'Sullivan Dam upstream to Grant County Road 7 NE: Open year-round, statewide lake rules apply to all species.

(d) From Grant County Road 7 NE upstream (including all tributaries, except Goose Creek in the city of Wilbur): Open year-round.

**(88) Crawfish Lake (Okanogan County):**

(a) Open the fourth Saturday in April through October 31.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

(89) **Crescent Lake (Pend Oreille County):** Open the fourth Saturday in April through October 31.

(90) **Crystal Lake (Grant County):** Open March 1 through September 30.

(91) **Cub Creek (tributary to Chewuch River) (Okanogan County):** From mouth upstream to West Chewuch Road Bridge: Closed waters.

(92) **Cup Lake (Grant County):** Open March 1 through September 30.

**(93) Curl Lake (Columbia County):**

(a) Open the Saturday before Memorial Day through October 31.

(b) It is unlawful to fish from any floating device.

(94) **Davis Lake (Ferry County):** Open the fourth Saturday in April through October 31.

**(95) Davis Lake (Okanogan County):**

(a) Selective gear rules.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2; minimum length 14 inches.

(96) **Dayton Pond (Columbia County):** Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

(97) **Deadman Lake (Adams County):** Open the fourth Saturday in April through September 30.

(98) **Deep Creek (tributary to Bumping Lake) (Yakima County):** From the mouth to the waterfall approximately 0.33 mile above the second bridge crossing on USFS Road 1808 (approximately 3.7 miles from the junction of USFS Roads 1800 and 1808): Closed waters.

(99) **Deep Lake (Grant County):** Open the fourth Saturday in April through September 30.

(100) **Deep Lake (Stevens County):** Open the fourth Saturday in April through October 31.

**(101) Deer Lake (Columbia County):**

(a) Open March 1 through November 30.

(b) It is unlawful to fish from any floating device.

(102) **Deer (Deer Springs) Lake (Lincoln County):** Open the fourth Saturday in April through September 30.

**(103) Deer Lake (Stevens County):**

(a) Open March 1 through November 30.

(b) Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

(104) **Delaney Springs (Grant County):** Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

(105) **De Roux Creek (Kittitas County):** From the mouth to the USFS trail 1392 (De Roux Creek Trail) stream crossing (approximately 1 river mile): Closed waters.

(106) **Dog Creek (tributary to Chewuch) (Okanogan County):** From mouth upstream to falls approximately 1.5 miles: Closed waters.

(107) **Domerie Creek (Kittitas County):** Selective gear rules.

(108) **Downs Lake (Lincoln/Spokane counties):**

(a) Open March 1 through September 30.

(b) Game fish: Statewide minimum length/daily limit, except: Crappie: Daily limit 10; minimum length 9 inches.

(109) **Dry Falls Lake (Grant County):**

(a) Open March 1 through November 30.

(b) Selective gear rules.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.

(110) **Dune Lake (Grant County):**

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.

(111) **Dusty Lake (Grant County):**

(a) Open March 1 through November 30.

(b) Selective gear rules.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.

(112) **Eagle Creek (tributary to Twisp River) (Okanogan County):** From mouth upstream to the falls approximately 0.5 miles: Closed waters.

(113) **Early Winters Creek (tributary to Methow River) (Okanogan County):**

(a) From the mouth upstream to Forest Road 300: Closed waters.

(b) From Forest Road 300 upstream; including tributaries except Cedar Creek:

(i) Open the Saturday before Memorial Day through August 15.

(ii) Selective gear rules.

(iii) Release all fish.

(114) **Eightmile Creek (tributary to Chewuch River) (Okanogan County):** From the mouth upstream to Forest Road 5130 Bridge: Closed waters.

(115) **Elbow Lake (Stevens County):**

(a) Open the fourth Saturday in April through October 31.

(b) Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

(116) **Ell Lake (Okanogan County):**

(a) Open the fourth Saturday in April through October 31.

(b) Selective gear rules.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(117) **Eloika Lake (Spokane County):** Game fish: Statewide minimum length/daily limit, except: Crappie: Daily limit 10; minimum length 9 inches.

(118) **Empire Lake (Ferry County):**

(a) Open the fourth Saturday in April through October 31.

(b) Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

(119) **Entiat River (Chelan County):**

(a) From mouth (railroad bridge) to the boundary marker/markers located approximately 1,500 feet upstream of the upper Roaring Creek Road Bridge (immediately downstream of the Entiat National Fish Hatchery): Open July ((+5)) 16 through September 30 for hatchery Chinook only.

(i) Selective gear rules.

(ii) Night closure.

(iii) Minimum ((size)) length 12 inches; daily limit ((2 adult hatchery Chinook salmon)) 6.

(iv) Release coho and ((wild adult Chinook)) sockeye.

(v) Steelhead: Closed to fishing.

(vi) Open December 1 through the last day in February for whitefish only.

((vi))) (vii) Whitefish gear rules.

(b) From the boundary marker/markers located approximately 1,500 feet upstream of the upper Roaring Creek Road Bridge (immediately downstream of the Entiat National Fish Hatchery) to Entiat Falls:

(i) Whitefish:

(ii) Open December 1 through the last day in February for whitefish only.

(iii) Whitefish gear rules.

(c) Entiat River and all tributaries above Entiat Falls: Selective gear rules.

(120) **Ephrata Lake (Grant County):** Closed waters.

(121) **Esquatzel Coulee (Franklin County):** Open year-round.

(122) **Esquatzel Coulee, West Branch (Franklin County):** Open year-round.

(123) **Falls Creek (tributary to Chewuch River) (Okanogan County):** From mouth upstream to the falls approximately ((+5)) .15 miles: Closed waters.

(124) **Fan Lake (Pend Oreille County):**

(a) Open the fourth Saturday in April through September 30.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(125) **Ferry Lake (Ferry County):** It is unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.

(126) **Fiorito Lakes (Kittitas County):** It is unlawful to fish from a floating device equipped with an internal combustion motor.

(127) **Fish Lake (Chelan County):** Game fish: Statewide minimum length/daily limit, except: Yellow perch: Daily limit 25.

(128) **Fish Lake (Okanogan County):** Open the fourth Saturday in April through October 31.

(129) **Fish Lake (Spokane County):**

(a) Open the fourth Saturday in April through September 30.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

(130) **Fishhook Pond (Walla Walla County):** It is unlawful to fish from a floating device.

(131) **Fishtrap Lake (Lincoln/Spokane counties):** Open the fourth Saturday in April through September 30.

**(132) Forde Lake (Okanogan County):**

(a) Open the fourth Saturday in April through October 31.

(b) Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

**(133) Fourth of July Lake (Adams/Lincoln counties):**

(a) Open the Friday after Thanksgiving through March 31.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

**(134) Frank's Pond (Chelan County):**

(a) Open the fourth Saturday in April through October 31.

(b) Open to juvenile anglers only.

**(135) Frater Lake (Pend Oreille County):** Open the fourth Saturday in April through October 31.

**(136) Frenchman Hills Wasteway and Drains (Grant County):** Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

**(137) Gadwall Lake (Grant County):** Open the fourth Saturday in April through September 30.

**(138) Garfield Juvenile Pond (Whitman County):** Open to juvenile anglers only.

**(139) Goat Creek (tributary to Methow River) (Okanogan County):** Closed waters.

**(140) Gold Creek, Gold Creek Pond and outlet channel (tributary to Keechelus Lake):** Including that portion of Gold Creek that flows through the dry Keechelus Reservoir lakebed: Closed waters.

**(141) Gold Creek (tributary to Methow River) (Okanogan County):** Closed waters.

**(142) Goose Creek (Lincoln County), within the city limits of Wilbur:** Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

**(143) Goose Lake, Lower (Grant County):** Game fish: Statewide minimum length/daily limit, except:

(a) Crappie: Daily limit 10; minimum length 9 inches.

(b) Bluegill: It is unlawful to retain more than 5 fish over 6 inches in length.

**(144) Grande Ronde River (Asotin County):**

(a) From the mouth to County Road Bridge, about 2.5 miles upstream:

(i) Open year-round for game fish other than trout and steelhead.

(ii) From August 1 through April 15: Selective gear rules.

(iii) Trout: Open from the Saturday before Memorial Day through October 31.

(iv) Steelhead:

(A) Open January 1 through April 15; daily limit 3 hatchery steelhead; minimum length 20 inches.

(B) August 1 through December 31; release steelhead.

(b) From the County Road Bridge upstream to the Oregon state line:

(i) Open year-round for game fish other than trout and steelhead.

(ii) From August 1 through April 15: Barbless hooks required.

(iii) Trout: Open from the Saturday before Memorial Day through October 31.

(iv) Steelhead: Open August 1 through April 15; daily limit 3 hatchery steelhead; minimum length 20 inches.

(c) All tributaries: Closed waters.

**(145) Green Lakes (Lower and Upper) (Okanogan County):**

(a) Selective gear rules.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Game fish: Statewide minimum length/daily limit, except:

(i) Trout: Daily limit 2; minimum length 14 inches.

(ii) Eastern brook trout count as part of trout daily limit.

**(146) Grimes Lake (Douglas County):**

(a) Open June 1 through August 31.

(b) Selective gear rules.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.

**(147) Halfmoon Lake (Adams County):** Open the fourth Saturday in April through September 30.**(148) Hampton Lakes (Lower and Upper) (Grant County):** Open the fourth Saturday in April through September 30.

**(149) H and H Reservoir Number One (Pascal's Pond) (Chelan County):** Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

**(150) Harris Lake (Grant County):**

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.

**(151) Hatch Lake (Stevens County):** Open the Friday after Thanksgiving through March 31.**(152) Hays Creek and Ponds (Adams County):** Open the fourth Saturday in April through September 30.

**(153) Headgate Pond (Asotin County):** Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

**(154) Hen Lake (Grant County):** Open the fourth Saturday in April through September 30.

**(155) Hog Canyon Creek (Spokane County):** From the mouth to Scroggie Road: Closed waters.

**(156) Hog Canyon Lake (Spokane County):** Open the Friday after Thanksgiving through March 31.

**(157) Homestead Lake (Grant County):**

(a) Selective gear rules.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.

**(158) Hourglass Lake (Grant County):** Open the fourth Saturday in April through September 30.

**(159) Hutchinson Lake (Adams County):** Open the fourth Saturday in April through September 30.

**(160) I-82 Ponds, 1 through 7 (Yakima County):** It is unlawful to fish from a floating device equipped with an internal combustion motor.

**(161) Icicle River and tributaries (Creek) (Chelan County):**

(a) From the mouth upstream 800 feet to posted signs: Closed waters.

(b) From posted signs 800 feet upstream of the mouth to 500 feet below Leavenworth National Fish Hatchery: Closed to all species except:

(i) Open for hatchery Chinook salmon only.

(ii) Open May 15 to July 31.

(iii) Night closure.

(iv) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(v) Daily limit 2 hatchery Chinook; minimum length 12 inches.

((v)) It is unlawful to retain more than 2) (vi) Mandatory retention of hatchery Chinook.

((b)) (c) From 500 feet below Leavenworth National Fish Hatchery to shoreline markers where Cyo Road would intersect the Icicle River at the Sleeping Lady Resort: Closed waters.

((e)) (d) From shoreline markers where Cyo Road would intersect the Icicle River at the Sleeping Lady Resort to the Icicle Peshastin Irrigation District footbridge (approximately 750 feet upstream of the "Snow Lakes Trailhead" parking lot):

(i) Closed to all species except:

(A) Open for hatchery Chinook only.

(B) Open May 15 to July 31.

(C) Night closure.

(D) Daily limit 2; minimum length 12 inches.

(ii) It is unlawful to retain more than 2 hatchery Chinook.

((d)) (e) From the Icicle Irrigation Peshastin District footbridge upstream, and tributaries: Selective gear rules.

**(162) Indian Creek (Yakima County):** From the mouth to the waterfall approximately six miles upstream including that portion that flows through the dry lake bed of Rimrock Reservoir: Closed waters.

**(163) Ingalls Creek (Chelan County):** From the mouth to Alpine Lakes Wilderness boundary and tributaries: Closed waters.

**(164) Jameson Lake (Douglas County):** Open the fourth Saturday in April through October 31.

**(165) Jasmine Creek (Okanogan County):**

(a) Open year-round to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

(b) Game fish: Statewide minimum length/daily limit, except: Steelhead: Closed to fishing.

**(166) Jefferson Park Pond (Walla Walla County):** Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

**(167) Jolanda, Lake (Chelan County):** Closed waters.

**(168) Kachess Lake (Reservoir) (Kittitas County):**

(a) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2; minimum length 14 inches.

(b) Chumming is permissible.

**(169) Kachess River (Kittitas County):**

(a) From Kachess Lake (Reservoir) upstream to the waterfall approximately 0.5 miles above Mineral Creek: Closed waters.

(b) It is permissible to fish up to the base of Kachess Dam.

(c) From the mouth to Kachess Dam: Selective gear rules.

**(170) Keechelus Lake (Reservoir) (Kittitas County):**

(a) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2; minimum length 14 inches.

(b) Chumming is permissible.

**(171) Kettle Creek (tributary to American River) (Yakima County):** Closed waters.

**(172) Kettle River (Stevens County):** From Barstow Bridge upstream:

(a) Selective gear rules, except for juvenile anglers, from the Canadian border upstream to Highway 21 Bridge at Curlew.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Game fish: Statewide minimum length/daily limit, except: Trout: Minimum length 14 inches.

(d) Whitefish:

(i) Open December 1 through the last day in February for whitefish only.

(ii) Whitefish gear rules.

**(173) Kings Lake and tributaries (Pend Oreille County):** Closed waters.

**(174) Kiwanis Pond (Kittitas County):** Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

**(175) Lake Creek (Okanogan County):**

(a) From the mouth to Black Lake: Closed waters.

(b) From Black Lake to Three Prong Creek: Closed waters.

**(176) Ledbetter Lake (Pend Oreille County):** Open the fourth Saturday in April through October 31.

**(177) Ledking Lake (Pend Oreille County):** Open the fourth Saturday in April through October 31.

**(178) Leech Lake (Yakima County):**

(a) Fly fishing only.

(b) It is unlawful to fish from a floating device equipped with a motor.

(c) Game fish: Statewide minimum length/daily limit, except: Rainbow trout: Daily limit 1; minimum length 18 inches.

**(179) Lemma Lake (Grant County):** Open the fourth Saturday in April through September 30.

**(180) Lenice Lake (Grant County):**

(a) Open March 1 through November 30.

(b) Selective gear rules.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.

**(181) Lenore Lake (Grant County):**

(a) The waters within a 200 yard radius of the trash rack leading to the irrigation pumping station (on the south end of

the lake) and the area approximately 100 yards beyond the mouth of inlet stream to State Highway 17: Closed waters.

(b) Open March 1 through November 30.

(c) Selective gear rules.

(d) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.

(182) **Libby Creek (tributary to Methow River) (Okanogan County):** Closed waters.

(183) **Liberty Lake (Spokane County):** Open March 1 through October 31.

(184) **Lilly Lake (Chelan County):**

(a) Open the fourth Saturday in April through October 31.

(b) Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

(185) **Lions Park Pond (Walla Walla County):** Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

(186) **Little Bridge Creek (tributary of Twisp River) (Okanogan County):**

(a) Open the Saturday before Memorial Day through August 15.

(b) Release all fish.

(c) Selective gear rules.

(187) **Little Falls Reservoir (Spokane River) (Lincoln County):** From Little Falls Dam to Long Lake Dam: Landlocked salmon rules.

(188) **Little Lost Lake (Pend Oreille County):** Open the fourth Saturday in April through October 31.

(189) **Little Naches River including tributaries (Yakima County):** Selective gear rules.

(190) **Little Pend Oreille River and tributaries (Stevens County):** Selective gear rules.

(191) **Little Spokane River and tributaries (Spokane County):**

(a) From the inlet of Chain Lake upstream 0.25 mile to the railroad crossing culvert: Closed waters.

(b) From the SR 291 Bridge upstream:

(i) Open Saturday before Memorial Day through October 31.

(ii) Whitefish:

(A) Open December 1 through the last day in February for whitefish only.

(B) Whitefish gear rules.

(192) **Little Twin Lake (Okanogan County):**

(a) Open the fourth Saturday in April through October 31.

(b) Selective gear rules.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) Game fish: Statewide minimum length/daily limit, except:

(i) Trout: Daily limit 1; minimum length 18 inches.

(ii) Eastern brook trout count as part of trout daily limit.

(193) **Little Twin Lake (Stevens County):** Open the fourth Saturday in April through October 31.

(194) **Little Wenatchee River (Chelan County):**

(a) From the mouth to USFS road 6700 Bridge and tributaries: Closed waters.

(b) From the USFS road 6700 Bridge upstream including tributaries: Selective gear rules.

(195) **Long Lake (Ferry County):**

(a) Open the fourth Saturday in April through October 31.

(b) Fly fishing only.

(c) It is unlawful to use flies containing lead.

(d) It is unlawful to fish from a floating device equipped with a motor.

(196) **Long Lake (Okanogan County):** Open the fourth Saturday in April through October 31.

(197) **Long Lake (Lake Spokane) (Spokane County):**

From Long Lake Dam to Nine Mile Dam, including Little Spokane River from the mouth to the SR 291 Bridge: Landlocked salmon rules.

(198) **Loon Lake (Stevens County):** Open the fourth Saturday in April through October 31.

(199) **Lost Lake (Kittitas County):** Game fish: Statewide minimum length/daily limit, except: Rainbow trout: Daily limit 2; minimum length 14 inches.

(200) **Lost Lake (Okanogan County):**

(a) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(b) It is unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.

(c) Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

(201) **Lost River (tributary to Methow River) (Okanogan County):**

(a) From the mouth to the mouth of Monument Creek: Closed waters.

(b) From the mouth of Monument Creek including tributaries upstream to Deception Creek:

(i) Open the Saturday before Memorial Day through August 15.

(ii) Selective gear rules.

(iii) Game fish: Statewide minimum length/daily limit, except:

(A) Trout: Minimum length 14 inches; daily limit 2.

(B) Dolly Varden/bull trout may be retained as part of trout daily limit.

(202) **Lyman Lake (Okanogan County):** Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

(203) **Mad River (Chelan County):**

(a) From the mouth to Windy Creek, including Windy Creek and tributaries except Tillicum Creek: Closed waters.

(b) From Windy Creek upstream and tributaries: Selective gear rules.

(204) **Manastash Creek (Kittitas County):** Selective gear rules.

(205) **Marshall Lake (Pend Oreille County):** Open the fourth Saturday in April through October 31.

(206) **Martha Lake (Grant County):** Open March 1 through September 30.

(207) **Mary Ann Lake (Okanogan County):** Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

(208) **Mattoon Lake (Kittitas County):** It is unlawful to fish from a floating device equipped with an internal combustion motor.

(209) **McCabe Pond (Kittitas County):** It is unlawful to fish from any floating device equipped with a motor.

(210) **McDowell Lake (Stevens County):**

(a) Open the fourth Saturday in April through October 31.

(b) Fly fishing only.

(c) It is unlawful to fish from a floating device equipped with a motor.

(d) Release all fish.

(211) **McManaman Lake (Adams County):** Open the fourth Saturday in April through September 30.

(212) **Medical Lake (Spokane County):**

(a) Open March 1 through November 30.

(b) Selective gear rules.

(c) It is unlawful to fish from a floating device equipped with a motor.

(d) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2; minimum length 14 inches.

(213) **Medical Lake, West (Spokane County):** Open the fourth Saturday in April through September 30.

(214) **Mercer Creek (Kittitas County):** Selective gear rules.

(215) **Merry Lake (Grant County):**

(a) Open March 1 through November 30.

(b) Selective gear rules.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.

(216) **Methow River (Okanogan County):**

(a) From mouth to County Road 1535 (Burma Road) Bridge: Closed waters.

(b) Tributaries from mouth to County Road 1535 (Burma Road) Bridge except Black Canyon Creek: Release all fish, except: Eastern brook trout: No minimum length/daily limit.

(c) From County Road 1535 (Burma Road) Bridge to Gold Creek:

(i) Open the Saturday before Memorial Day through September 15.

(ii) Selective gear rules.

(iii) Release all fish.

(d) All tributaries from the County Road 1535 (Burma Road) to Gold Creek except Gold Creek:

(i) Selective gear rules.

(ii) Release all fish, except: Eastern brook trout: No minimum length/daily limit.

(e) From Gold Creek to Foghorn Dam:

(i) Open the Saturday before Memorial Day through September 30.

(ii) Selective gear rules.

(iii) Release all fish.

(iv) Whitefish:

(A) Open December 1 through the last day in February for whitefish only.

(B) Whitefish gear rules.

(f) Methow River tributaries from Gold Creek to Foghorn Dam; except Twisp River, Chewuch River, Libby

Creek, and Beaver Creek: Release all fish, except: Eastern brook trout: No minimum length/daily limit.

(g) From Foghorn Dam to Weeman Bridge including tributaries:

(i) Open the Saturday before Memorial Day through August 15:

(A) Release all fish.

(B) Selective gear rules.

(ii) Whitefish:

(A) Open December 1 through the last day in February for Whitefish only.

(B) Whitefish gear rules.

(h) From Weeman Bridge to the falls above Brush Creek: Whitefish:

(i) Open December 1 through the last day in February for whitefish only.

(ii) Whitefish gear rules.

(i) Methow River tributaries from Weeman Bridge to the falls above Brush Creek; excluding Lost River, Goat Creek, Early Winters Creek, and Wolf Creek.

(i) Selective gear rules.

(ii) Release all fish.

(217) **Mill Creek (tributary to the Walla Walla River) (Walla Walla County):**

(a) From the mouth to Bennington Dam, including tributaries: Closed waters.

(b) From Bennington Dam upstream excluding tributaries: Selective gear rules.

(c) All tributaries upstream of Bennington Dam: Closed waters.

(218) **Mineral Creek (tributary to upper Kachess River) (Kittitas County):** From the mouth to the Wilderness Boundary: Closed waters.

(219) **Molson Lake (Okanogan County):** Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

(220) **Monument Creek (Okanogan County), including tributaries:** Selective gear rules.

(221) **Morgan Lake (Adams County):** Open the fourth Saturday in April through September 30.

(222) **((Mouse Lake (Okanogan County):** Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

**((223))) Moses Lake (Grant County):** Game fish: Statewide minimum length/daily limit, except:

(a) Crappie: Daily limit 10; minimum length 9 inches.

(b) Bluegill: Daily limit 5; minimum length 8 inches.

(c) Yellow perch: Daily limit 25.

**((224)) (223) Mud Lake (Yakima County):**

(a) Selective gear rules.

(b) It is unlawful to fish from a floating device equipped with a motor.

(c) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.

**((225)) (224) Mudgett Lake (Stevens County):** Open the fourth Saturday in April through October 31.

**((226)) (225) Muskegon Lake (Pend Oreille County):**

(a) Open the fourth Saturday in April through October 31.

(b) Selective gear rules.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2; minimum length 14 inches.

**((227)) (226) Myron Lake (Yakima County):**

(a) Selective gear rules.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2; minimum length 14 inches.

**((228)) (227) Mystic Lake (Pend Oreille County):**

Open the fourth Saturday in April through October 31.

**((229)) (228) Naches River (Yakima/Kittitas counties):**

(a) From the mouth to Little Naches River:

(i) Selective gear rules.

(ii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iii) Game fish: Statewide minimum length/daily limit, except:

(A) Trout: Daily limit 2; minimum length 14 inches.

(B) Release trout from the confluence with Tieton River to the confluence of the Little Naches River and Bumping River (origin of Naches River).

(b) From the mouth to the Tieton River:

(i) Whitefish: December 1 through the last day in February for whitefish only.

(ii) Whitefish gear rules.

**((230)) (229) Naneum Creek and tributaries (Kittitas County):** Selective gear rules.

**((231)) (230) Naneum Pond (Kittitas County):** Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

**((232)) (231) Napeequa River (Chelan County):**

From mouth to Twin Lakes Creek (including Twin Lakes Creek and all tributaries: Closed waters.

**((233)) (232) Nason Creek (Chelan County):**

(a) From the mouth to Gaynor Falls and tributaries except Whitepine Creek: Closed waters.

(b) From Gaynor Falls (approximately 0.7 miles upstream of Whitepine Creek) upstream and tributaries: Selective gear rules.

**((234)) (233) Nile Creek and tributaries (Yakima County):** Selective gear rules.

**((235)) (234) No Name Lake (Pend Oreille County):** Open the fourth Saturday in April through October 31.

**((236)) (235) North Creek (tributary to Twisp River) (Okanogan County):** From the mouth upstream to Twisp River Road Bridge: Closed waters.

**((237)) (236) North Elton Pond (Yakima County):**

(a) Open the Friday after Thanksgiving through March 31.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

**((238)) (237) North Potholes Reserve Ponds (Grant County):** Open March 1 through the day before waterfowl season begins.

**((239)) (238) Nunnally Lake (Grant County):**

(a) The outlet stream of Nunnally Lake is closed waters.

(b) Open March 1 through November 30:

(c) Selective gear rules.

(d) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(e) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.

**((240)) (239) Oak Creek and tributaries (Yakima County):** Selective gear rules.

**((241)) (240) Okanogan River (Okanogan County):**

(a) Within the mainstem or tributaries open for game fish: It is unlawful to fish for salmon and steelhead using anything other than barbless hooks.

(b) From the mouth to Highway 97 Bridge immediately upstream of the mouth:

(i) Open year-round.

(ii) July 1 through October 15: Anti-snagging rule and night closure.

(iii) Game fish: Statewide minimum length/daily limit, except:

(A) Release trout.

(B) Steelhead: Closed to fishing.

(iv) Salmon:

(A) Open July 1 through October 15.

(B) It is permissible to fish two poles from July 1 through August 31 so long as the angler possesses a two-pole endorsement.

(C) Daily limit ((4)) 6; no more than 2 adult hatchery Chinook may be retained.

(D) Release coho, sockeye, and wild adult Chinook.

(c) From Highway 97 Bridge immediately upstream of the mouth to the highway bridge at Malott:

(i) Open year-round.

(ii) July 1 through September 15: Anti-snagging rule and night closure.

(iii) Game fish: Statewide minimum length/daily limit, except:

(A) Release trout.

(B) Steelhead: Closed to fishing.

(iv) Salmon:

(A) Open July 1 through September 15.

(B) Daily limit ((4)) 6; no more than 2 adult hatchery Chinook may be retained.

(C) Release coho, sockeye, and wild adult Chinook.

(d) From the highway bridge at Malott upstream:

(i) From Zosel Dam downstream to the first Highway 97 Bridge downstream of the dam: Closed waters.

(ii) Open the Saturday before Memorial Day through September 15.

(iii) July 1 through September 15: Anti-snagging rule and night closure.

(iv) Game fish: Statewide minimum length/daily limit, except:

(A) Release trout.

(B) Steelhead: Closed to fishing.

(v) Salmon:

(A) Open July 1 through September 15.

(B) Limit ((4)) 6; no more than 2 adult hatchery Chinook may be retained.

(C) Release coho, sockeye, and wild adult Chinook.

(e) All Okanogan River tributaries, except Salmon Creek, Jasmine Creek, Bonaparte Creek, and the Similkameen River:

(i) Selective gear rules.

(ii) Game fish: Statewide minimum length/daily limit, except:

(A) Release trout.

(B) Steelhead: Closed to fishing.

((242)) (241) **Palouse River (Whitman County):**

From the mouth to the base of Palouse Falls:

(a) Open year-round for game fish except trout and steelhead.

(b) Trout: Open the Saturday before Memorial Day through October 31.

(c) Steelhead:

(i) Open August 1 through April 15.

(ii) Daily limit 3 hatchery steelhead; minimum length 20 inches.

(d) It is permissible to fish with two poles so long as the angler possesses a valid two-pole endorsement, except for steelhead.

((243)) (242) **Palouse River (Whitman County) mainstem above Palouse Falls and tributaries (Washington waters only), except Rock Creek and Hog Canyon Creek: Open year-round.**

((244)) (243) **Pampa Pond (Whitman County):**

(a) Open March 1 through September 30.

(b) It is unlawful to fish from any floating device.

((245)) (244) **Park Lake (Grant County):** Open the fourth Saturday in April through September 30.

((246)) (245) **Parker Lake (Pend Oreille County):**

Open the fourth Saturday in April through October 31.

((247)) (246) **Pataha Creek (Garfield County):**

(a) Within the city limits of Pomeroy: Open to juvenile anglers, senior angler, and anglers with a disability who possess a designated harvester companion card only.

(b) From the city limits of Pomeroy upstream: Selective gear rules.

((248)) (247) **Patterson Lake (Okanogan County):**

Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

((249)) (248) **Pearrygin Lake (Okanogan County):**

Open the fourth Saturday in April through October 31.

((250)) (249) **Pend Oreille River (Pend Oreille County):**

(a) Open year-round.

(b) Game fish: Statewide lake rules.

(c) All sloughs within the boundaries of the Kalispel Reservation, except Calispell Slough: Closed waters.

((251)) (250) **Perch Lake (Grant County):** Open the fourth Saturday in April through September 30.

((252)) (251) **Peshastin Creek and all tributaries except Ingalls Creek (Chelan County):** Closed waters.

((253)) (252) **Petit Lake (Pend Oreille County):**

(a) Open the fourth Saturday in April through October 31.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

((254)) (253) **Phalon Lake (Stevens County):** Closed waters.

((255)) (254) **Phillips Lake (Stevens County):** Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

((256)) (255) **Pierre Lake (Stevens County):** It is unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.

((257)) (256) **Pillar Lake (Grant County):** Open the fourth Saturday in April through September 30.

((258)) (257) **Ping Pond (Oasis Park Pond) (Grant County):** Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

((259)) (258) **Pit Lake (Douglas County):** Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

((260)) (259) **Poacher Lake (Grant County):** Open the fourth Saturday before April through September 30.

((261)) (260) **Potholes Reservoir (Grant County):** Game fish: Statewide minimum length/daily limit, except:

(a) Crappie: Minimum length 9 inches.

(b) Crappie and bluegill: Combined limit of 25 fish.

(c) Yellow perch: Daily limit 25 fish.

((262)) (261) **Potter's Pond (Stevens County):** Open the fourth Saturday in April through October 31.

((263)) (262) **Powerline Lake (Franklin County):** Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2; minimum length 14 inches.

((264)) (263) **Quail Lake (Adams County):**

(a) Fly fishing only.

(b) It is unlawful to fish from any floating device equipped with a motor.

(c) Release all fish.

((265)) (264) **Quarry Pond (Walla Walla County):** It is unlawful to fish from any floating device.

((266)) (265) **Quincy Lake (Grant County):** Open March 1 through September 30.

((267)) (266) **Rainbow Lake (Columbia County):**

(a) Open March 1 through November 30.

(b) It is unlawful to fish from any floating device.

((268)) (267) **Rat Lake (Okanogan County):**

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2; minimum length 14 inches.

((269)) (268) **Rattlesnake Creek and tributaries (Yakima County):**

(a) Selective gear rules.

(b) Release all fish.

((270)) (269) **Red Rock Creek (Grant County):** Open the Saturday before Memorial Day through September 30.

((271)) (270) **Reflection Pond (Okanogan County):**

(a) Open the fourth Saturday in April through October 31.

(b) Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

((272)) (271) **Renner Lake (Ferry County):**

(a) Open the fourth Saturday in April through October 31.

(b) Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

**((273)) (272) Rigley Lake (Stevens County):**

(a) Open the fourth Saturday in April through October 31.

(b) Selective gear rules.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2, minimum length 14 inches.

**((274)) (273) Rimrock Lake (Reservoir) (Yakima County):** Chumming is permissible.

**((275)) (274) Ringold Springs Hatchery Creek (Franklin County):** Closed waters.

**((276)) (275) Roaring Creek (Entiat River tributary) (Chelan County):** Closed waters.

**((277)) (276) Rock Creek (Adams/Whitman counties):**

(a) From the mouth to the bridge on Jordan Knott Road at Revere:

(i) Selective gear rules.

(ii) Release all fish.

(b) From the bridge on Jordan Knott Road upstream: Open year-round.

**((278)) (277) Rocky Ford Creek and Ponds (Grant County):**

(a) Open to fly fishing and fishing from the bank only (no wading).

(b) Release all fish.

**((279)) (278) Rocky Lake (Stevens County):** Open the fourth Saturday in April through October 31.

**((280)) (279) Roosevelt Lake (Grant/Ferry/Lincoln/Stevens counties):** Columbia River from Grand Coulee Dam to U.S. Canadian border including Hawk Creek downstream of the falls at Hawk Creek Campground, Spokane River from 400 feet downstream of Little Falls Dam, Kettle River downstream of Barstow Bridge, and Colville River downstream of S.R. 25 Bridge.

(a) The following areas are closed waters:

(i) From the Little Dalles power line crossing upstream approximately one mile to the marked rock point from March 1 through the Friday before Memorial Day.

(ii) Northport power line crossing upstream to the most upstream point of Steamboat Rock, from March 1 through the Friday before Memorial Day.

(iii) The Kettle River upstream to Barstow Bridge from March 1 through the Friday before Memorial Day.

(b) From Grand Coulee Dam to the Little Dalles power line crossing:

(i) Game fish: Statewide minimum length/daily limit, except:

(A) Kokanee: Daily limit 6; no more than 2 with intact adipose fins.

(B) Trout (except kokanee): Daily limit 5; it is unlawful to retain trout with an intact adipose fin.

(C) Walleye: Daily limit 16 fish; no size restrictions.

(ii) Salmon: Landlocked salmon rules apply.

(c) From the Little Dalles power line crossing to the Canadian border:

(i) Game fish: Statewide minimum length/daily limit, except:

(A) Kokanee: Daily limit 6; no more than 2 with intact adipose fins.

(B) Trout (except kokanee): Daily limit 2; minimum size 18 inches.

(C) Walleye: Daily limit 16; no size restrictions.

(ii) Salmon: Landlocked salmon rules apply.

**((281)) (280) Round Lake (Okanogan County):** Open the fourth Saturday in April through October 31.

**((282)) (281) Royal Lake (Adams County):** Closed waters.

**((283)) (282) Royal Slough (including Marsh Unit IV impoundments) (Adams County):** Closed waters.

**((284)) (283) Rufus Woods Lake (Douglas/Okanagan counties):**

(a) From Grand Coulee Dam downstream to State Route 155 Bridge: Closed waters.

(b) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2; minimum length 14 inches.

(c) Sturgeon: Closed to fishing.

**((285)) (284) Sacheen Lake (Pend Oreille County):** Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

**((286)) (285) Saddle Mountain Lake (Grant County):** Closed waters.

**((287)) (286) Sago Lake (Grant County):** Open the fourth Saturday in April through September 30.

**((288)) (287) Salmon Creek (Okanogan County):**

(a) From the mouth to Conconully Reservoir:

(i) Selective gear rules.

(ii) Game fish: Statewide minimum length/daily limit, except:

(A) Release trout other than eastern brook trout.

(B) Steelhead: Closed to fishing.

(b) From Conconully Reservoir upstream including tributaries: Selective gear rules.

**((289)) (288) San Poil River (Ferry County):**

(a) From the western shoreline at the mouth of the San Poil Arm (as marked by a regulatory buoy) directly eastward across the San Poil Arm to the eastern shoreline of the San Poil Arm (as marked by a regulatory buoy) upstream to the north shore of the outlet of French Johns Lake (Manila Creek) northeast across the San Poil Arm to the north shore of the outlet of Dick Creek:

(i) Game fish: Open year-round; statewide minimum length/daily limit, except:

(A) Open June 1 through January 31 for kokanee, smallmouth bass, trout, and walleye:

(I) Kokanee: Daily limit 2.

(II) Trout: Daily limit 5; it is unlawful to retain trout with an intact adipose fin.

(III) Walleye: Daily limit 16; no size restrictions.

(IV) Smallmouth bass: Daily limit 10; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(B) Largemouth bass: Daily limit 5; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(ii) Salmon: Open year-round; landlocked salmon rules apply.

(iii) Carp: Open year-round.

(b) From the north shore of the outlet of French Johns Lake (Manila Creek) northeast across the San Poil Arm to the north shore of the outlet of Dick Creek to approximately 5 miles upstream from the outlet of French Johns Lake, as marked by regulatory buoys:

(i) Game fish: Open year-round; statewide minimum length/daily limit, except:

(A) Kokanee: Unlawful to fish for or retain.

(B) Trout: Unlawful to fish for or retain.

(C) Open June 1 through January 31 for walleye and smallmouth bass:

(I) Walleye: Daily limit 16; no size restrictions.

(II) Smallmouth bass: Daily limit 10; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(D) Largemouth bass: Daily limit 5; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(ii) Salmon: Open year-round; landlocked salmon rules apply.

(iii) Carp: Open year-round; unlawful to fish for carp with bow and arrow.

(c) The waters from approximately 5 miles upstream from the outlet of French Johns Lake, as marked by regulatory buoys, to all waters north of the regulatory buoy line at or above 1,310 feet mean sea level elevation upstream to the northern reservation boundary are managed under the regulatory authority of the Colville Confederated Tribes.

((290)) (289) Sand Hollow Creek (Grant County) including tributaries: From the mouth (State Route 243) upstream: Open the Saturday before Memorial Day through September 30.

((291)) (290) Sarg Hubbard Park Pond (Reflection Pond) (Yakima County): Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

((292)) (291) Schallow Pond (Okanogan County): Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

((293)) (292) Sedge Lake (Grant County):

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.

((294)) (293) Shellneck Creek (Yakima County): Closed waters.

((295)) (294) Sherman Creek (Ferry County) and tributaries: From the hatchery boat dock to 400 feet upstream of hatchery water diversion dam: Closed waters.

((296)) (295) Shiner Lake (Adams County): Open the fourth Saturday in April through September 30.

((297)) (296) Shoveler Lake (Grant County): Open the fourth Saturday in April through September 30.

((298)) (297) Silver Lake (Spokane County): Game fish: Statewide minimum length/daily limit, except: Crappie: Daily limit 10; minimum length 9 inches.

((299)) (298) Silver Nail Lake (Okanogan County): Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

((300)) (299) Similkameen River (Okanogan County):

(a) From Enloe Dam downstream 400 feet: Closed waters.

(b) From the mouth to Enloe Dam:

(i) Open July 1 through September 15:

(ii) Barbless hooks required for salmon and steelhead.

(iii) Anti-snagging rule.

(iv) Night closure.

(v) Game fish: Statewide minimum length/daily limit, except:

(A) Release trout.

(B) Steelhead: Closed to fishing.

(vi) Salmon:

(A) Daily limit ((4)) 6; no more than 2 adult hatchery Chinook may be retained.

(B) Release coho, sockeye, and wild adult Chinook.

(vii) Whitefish:

(A) Open December 1 through the last day in February for whitefish only.

(B) Whitefish gear rules.

(c) From Enloe Dam to the Canadian border, including tributaries, except Sinlahekin Creek:

(i) Open the Saturday before Memorial Day through October 31.

(ii) Whitefish:

(A) Open December 1 through the last day in February for whitefish only.

(B) Whitefish gear rules.

((301)) (300) Sinlahekin Creek (Okanogan County): From Palmer Lake to Cecile Creek Bridge:

(a) Open the Saturday before Memorial Day through August 31.

(b) Selective gear rules.

(c) Whitefish:

(i) Open December 1 through the last day in February for whitefish only.

(ii) Whitefish gear rules.

((302)) (301) Skookum Lake, North (Pend Oreille County): Open the fourth Saturday in April through October 31.

((303)) (302) Skookum Lake, South (Pend Oreille County):

(a) Open the fourth Saturday in April through October 31.

(b) It is unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.

((304)) (303) Snake River:

(a) Tributaries except Palouse River, Tucannon River, Asotin Creek, and Grande Ronde River: Closed waters.

(b) Columbia River rules apply downstream of the Burbank-to-Pasco railroad bridge at Snake River mile 1.5.

(c) Within 400 feet of the base of any dam: Closed waters.

(d) Within a 400 foot radius around the fish ladder entrance at Lyons Ferry Hatchery: Closed waters.

(e) Within a 200 foot radius upstream of the fish ladder exit above Lower Granite Dam: Closed waters.

(f) Within an area 1,200 feet downstream from the base of the west lock gate at Little Goose Dam on the south bank

of the Snake River and 100 feet out into the river from the south river bank: Closed waters.

(g) Game fish: Open year-round; statewide minimum length/daily limit, except:

(i) Trout: Open the Saturday before Memorial Day through October 31.

(ii) Steelhead:

(A) Open the Saturday before Memorial Day through July 31; daily limit 2, barbless hooks required.

(B) Open August 1 through March 31; Daily limit 3 hatchery steelhead; barbless hooks required.

((305)) (304) **Snipe Lake (Grant County)**: Open the fourth Saturday in April through September 30.

((306)) (305) **Snipes Creek (Benton County)**: Selective gear rules.

((307)) (306) **Spectacle Lake (Okanogan County)**: Open April 1 through September 30.

((308)) (307) **Spokane River (Spokane County)**: From Nine Mile Dam upstream to the Idaho/Washington state line:

(a) Selective gear rules.

(b) Open the Saturday before Memorial Day through March 15:

(c) Game fish: Release all fish, except: Hatchery rainbow trout: Daily limit 2.

((309)) (308) **Sprague Lake (Adams/Lincoln counties)**:

(a) The following waters are closed waters:

(i) Cow Creek.

(ii) The marsh at the southwest end of the lake from the lakeside edge of the reeds, including Cow Creek, to Danekas Road.

(iii) The small bay at the southeast end of the lake.

(b) All other waters southwest of the southwest tip of Harper Island: Closed from October 1 through April 30.

(c) Game fish: Statewide minimum length/daily limit except:

(i) Crappie: Minimum length 9 inches.

(ii) Crappie and bluegill: Combined limit of 25 fish.

((310)) (309) **Spring Creek (Benton County)**: Selective gear rules.

((311)) (310) **Spring Hill Reservoir (Black Lake, Lower Wheeler Reservoir) (Chelan County)**:

(a) Open the fourth Saturday in April through October 31.

(b) Selective gear rules.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1, minimum length 18 inches.

((312)) (311) **Spring Lake (Columbia County)**: It is unlawful to fish from any floating device.

((313)) (312) **Spring Lakes (Upper and Lower) (Grant County)**: Open March 1 through September 30.

((314)) (313) **Springdale Pond (Lucky Duck Pond) (Stevens County)**: Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

((315)) (314) **Spruce Creek (tributary to South Fork Tieton River) (Yakima County)**: Closed waters.

((316)) (315) **Starvation Lake (Stevens County)**: Open the fourth Saturday in April through October 31.

((317)) (316) **Starzman Lakes (Okanogan County)**: Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

((318)) (317) **Stehkin River (Chelan County)**: From the mouth (Powerline crossing) upstream and tributaries:

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Release wild cutthroat.

((319)) (318) **Stratford/Brook Lake (Grant County)**: Open March 1 through September 30.

((320)) (319) **Sugarloaf Lake (Okanogan County)**: Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

((321)) (320) **Sullivan Creek and tributaries (Pend Oreille County)**:

(a) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout.

(b) Selective gear rules.

((322)) (321) **Sullivan Lake (Pend Oreille County)**: Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2; minimum length 14 inches.

((323)) (322) **Summit Lake (Okanogan County)**: Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

((324)) (323) **Summit Lake (Stevens County)**: Open the fourth Saturday in April through October 31.

((325)) (324) **Swan Lake (Ferry County)**: It is unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.

((326)) (325) **Swauk Creek and tributaries (Kittitas County)**: Selective gear rules.

((327)) (326) **Taneum Creek and tributaries (Kittitas County)**: Selective gear rules.

((328)) (327) **Teal Lakes (North and South) (Grant/Adams counties)**: Open the fourth Saturday in April through September 30.

((329)) (328) **Teanaway River (Kittitas County), and tributaries except North Fork**: Selective gear rules.

((330)) (329) **Teanaway River, North Fork (Kittitas County)**:

(a) From the mouth to Beverly Creek and tributaries; including Beverly Creek:

(i) Selective gear rules.

(ii) Game fish: Statewide minimum length/daily limit, except: Release trout.

(b) From Beverly Creek to the impassable waterfall at the end of USFS Road 9737: Closed waters.

((331)) (330) **Tern Lake (Grant County)**:

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.

((332)) (331) **Thirtymile Creek (tributary to Chewuch River) (Okanogan County)**: From mouth upstream to falls (approximately 700 feet): Closed waters.

((333)) (332) **Tieton River (Yakima County)**:

(a) It is permissible to fish up to the base of Tieton (Rimrock) Dam.

(b) Selective gear rules apply.

((334)) (333) **Tieton River, North Fork (Yakima County):**

(a) The Clear Lake spillway channel: Closed waters.  
 (b) From the USFS Road 740 Bridge to Clear Lake Dam: Closed waters.

(c) The mainstem and tributaries including that portion of the river that flows through the dry lakebed of Rimrock Reservoir, upstream of Clear Lake:

(i) Open the Saturday before Memorial Day through August 15.

(ii) Selective gear rules.

((335)) (334) **Tieton River, South Fork (Yakima County):** From the bridge on USFS Road 1200 to bridge on USFS road 1070: Closed waters.

((336)) (335) **Tillicum Creek (tributary to Mad River) (Chelan River):**

(a) From mouth to the intersection of USFS 5800 and USFS 5808: Closed waters.

(b) From the intersection of USFS 5800 and USFS 5808 upstream (upstream 2.25 miles) including tributaries: Selective gear rules.

((337)) (336) **Touchet River and tributaries (Columbia/Walla Walla counties):**

(a) From the mouth to the confluence of the North and South Forks:

(i) All tributaries: Closed waters.

(ii) Game fish: Open the Saturday before Memorial Day through April 15; statewide minimum length/daily limit, except:

(A) November 1 through April 15: Release all fish except steelhead.

(B) August 1 through April 15: Hatchery steelhead daily limit 3, barbless hooks required.

(b) From the confluence of the North and South Forks upstream including both forks, Robinson Fork, and Wolf Fork:

(i) All other tributaries: Closed waters.

(ii) Open the Saturday before Memorial Day through August 31.

(iii) Selective gear rules.

((338)) (337) **Trout Lake (Ferry County):** Open the fourth Saturday in April through October 31.

((339)) (338) **Tucannon River (Columbia County):**

(a) All tributaries are closed waters, except Pataha Creek.

(b) Mouth upstream to Tucannon Hatchery Road Bridge:

(c) Game fish: Open the Saturday before Memorial Day through April 15; statewide minimum length/daily limit, except:

(i) November 1 through April 15: Release all fish except steelhead.

(ii) August 1 through April 15: Hatchery steelhead daily limit 3, barbless hooks required.

(d) Tucannon Hatchery Bridge to 500 feet above intake for Rainbow Lake: Closed waters.

(e) 500 feet above intake for Rainbow Lake to Cow Camp Bridge:

(i) Open the Saturday before Memorial Day through August 31.

(ii) Selective gear rules.

(f) Cow Camp Bridge upstream: Closed waters.

((340)) (339) **Tucquala Lake (Kittitas County):**

(a) Open the Saturday before Memorial Day through October 31.

(b) Statewide stream rules apply.

((341)) (340) **Twentymile Creek (tributary to Chewuch River) (Okanogan County):** From the mouth upstream to falls (approximately 0.75 miles): Closed waters.

((342)) (341) **Twin Lakes, tributaries, and Twin Lakes Creek (outlet stream) to the confluence with the Napeequa River (Chelan County):** Closed waters.

((343)) (342) **Twisp River (Okanogan County):**

(a) Mouth to War Creek:

(i) Open the Saturday before Memorial Day through August 15.

(ii) Selective gear rules.

(iii) Release all fish.  
 (b) Twisp River tributaries from War Creek upstream except North Creek and North Fork Twisp River:

(i) Selective gear rules.

(ii) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(iii) Release all fish.

(c) From War Creek upstream: Closed waters.

((344)) (343) **Twisp River, North Fork (Okanogan County):** From mouth to falls including tributaries: Closed waters.

((345)) (344) **Umtanum Creek (Kittitas County):** Selective gear rules.

((346)) (345) **Union Creek (Yakima County):** From the mouth to the falls: Closed waters.

((347)) (346) **Upper Wheeler Reservoir (Chelan County):**

(a) Open the fourth Saturday in April through October 31.

(b) Fly fishing only.

(c) It is unlawful to fish from a floating device equipped with a motor.

(d) Release all fish.

((348)) (347) **Vic Meyers (Rainbow) Lake (Grant County):**

(a) Open the fourth Saturday in April through September 30.

(b) Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

((349)) (348) **Walla Walla River (Walla Walla County):** From mouth to Washington/Oregon stateline:

(a) All tributaries except Touchet River and Mill Creek: Closed waters.

(b) Game fish: Open year-round; statewide minimum length/daily limit, except for trout and steelhead:

(i) Trout: Open the Saturday before Memorial day through October 31; statewide minimum length/daily limit.

(ii) Steelhead:

(A) Open the Saturday before Memorial Day through July 31; daily limit 2 hatchery steelhead.

(B) Open August 1 through April 15; daily limit 3 hatchery steelhead, barbless hooks required.

((350)) (349) **Wannacut Lake (Okanogan County):** Open the fourth Saturday in April through October 31.

((351)) (350) **Wapato Lake (Chelan County):** Open the fourth Saturday in April through October 31.

((352)) (351) **Ward Lake (Ferry County):**

(a) Open the fourth Saturday in April through October 31.

(b) Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

((353)) (352) **Warden Lake (Grant County):** Open the fourth Saturday in April through September 30.

((354)) (353) **Warden Lake, South (Grant County):** Open the fourth Saturday in April through September 30.

((355)) (354) **Washburn Island Pond (Okanogan County):**

(a) Open April 1 through September 30.

(b) An internal combustion motor may be attached to a floating device, but cannot be used.

((356)) (355) **Washburn Lake (Okanogan County):**

(a) Open the fourth Saturday in April through October 31.

(b) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.

(c) Selective gear rules.

(d) It is unlawful to fish from a floating device equipped with an internal combustion motor.

((357)) (356) **Watson Lake (Columbia County):**

(a) Open March 1 through November 30.

(b) It is unlawful to fish from any floating device.

((358)) (357) **Wenaha River tributaries:**

(a) Open the Saturday before Memorial Day through August 31.

(b) Selective gear rules.

((359)) (358) **Wenas Creek (Yakima County):** From the mouth to Wenås Lake, including tributaries: Selective gear rules.

((360)) (359) **Wenatchee Lake (Chelan County):**

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except:

(i) Release trout.

(ii) Steelhead: Closed to fishing.

((361)) (360) **Wenatchee River (Chelan County):**

From the mouth to the Icicle Road Bridge:

(a) Closed waters, except:

(b) Salmon:

(i) Open August 1 through September 30.

(ii) Selective gear rules.

(iii) Night closure.

(iv) Daily limit ((4)) 6; minimum length 12 inches it is unlawful to retain more than 2 adult hatchery Chinook.

(v) Release coho, sockeye, and wild adult Chinook salmon.

(c) From Icicle Road Bridge upstream to Lake Wenatchee: Closed waters.

((362)) (361) **Whitepine Creek (Chelan County):**

From the mouth to Whitepine Creek Falls (1 mile upstream of mouth) and tributaries: Closed waters.

((363)) (362) **White River (Chelan County):** From the mouth to White River Falls and tributaries, except Napequa River: Closed waters.

((364)) (363) **Widgeon Lake (Grant County):** Open the fourth Saturday in April through September 30.

((365)) (364) **Williams Lake (Spokane County):** Open the fourth Saturday in April through September 30.

((366)) (365) **Williams Lake (Stevens County):** Open the Friday after Thanksgiving through March 31.

((367)) (366) **Wilson Creek (Kittitas County):** From BNSF railroad bridge upstream: Selective gear rules.

((368)) (367) **Winchester Wasteway (Grant County) (that portion within the Winchester Game Reserve):** Open March 1 through September 30.

((369)) (368) **Wolf Creek (Methow River tributary) (Okanogan County):** Closed waters.

((370)) (369) **Yakima River (Yakima County):**

(a) Downstream of Highway 240 Bridge, Columbia River rules apply.

(b) From the Highway 240 Bridge to ((Prosser Dam)) the downstream side of the westbound I-82 Bridge: Open March 1 through October ((22)) 31.

(i) From 200 feet above to 200 feet below the USBR Chandler Powerhouse/Pumping Station: Closed waters September 1 through October ((22)) 31.

(ii) From March 1 through ((August)) October 31; for all open species except sturgeon: It is permissible to fish with two poles so long as the angler possesses a valid two-pole endorsement.

(iii) Chumming is permissible.

(c) From the Grant Avenue bridge in Prosser downstream approximately 1.25 miles to the downstream side of the westbound I-82 Bridge: Open March 1 through October 31.

(i) From March 1 through October 31; for all open species except sturgeon: It is permissible to fish with two poles so long as the angler possesses a valid two-pole endorsement.

(ii) Chumming is permissible.

(iii) Fishing from a floating device is prohibited September 1 through October ((22)) 31.

((iv)) (iv) Game fish: Statewide minimum size/daily limit, except: Release trout.

((v)) (v) Salmon:

(A) Open September 1 through October ((22)) 31.

(B) Night closure.

(C) Barbless hooks required.

(D) Limit 6; it is unlawful to retain more than 2 adults.

(d) From Prosser Dam to Highway 223 Bridge:

(i) Open March 1 through October 31.

(ii) Game fish: Statewide minimum size/daily limit, except: Release trout.

(e) From Grant Avenue Bridge to Prosser Dam: Closed waters.

(f) From Highway 223 Bridge to 3,500 feet below Roza Dam:

(i) From Yakima Avenue-Terrace Heights Bridge upstream 400 feet: Closed waters.

(ii) Selective gear rules.

(iii) Game fish: Statewide minimum length/daily limit, except: Trout: Minimum length 14 inches.

(iv) Whitefish:

(A) Open December 1 through the last day in February for whitefish only.

(B) Whitefish gear rules.

((f)) (g) From 3,500 feet below Roza Dam to Roza Dam: Closed waters.

((g)) (h) From Roza Dam to 400 feet below Easton Dam; including the portion of Wilson Creek from the mouth upstream to the BNSF railroad bridge: Open year-round.

(i) It is permissible to fish from floating devices equipped with motors only from the U.S. Bureau of Reclamation restricted area signs at Roza Dam upstream to the boat launch ramp on the Roza Access Area (approximately 1.3 river miles).

(ii) Selective gear rules.

(iii) Game fish: Statewide minimum length/daily limit, except: Release trout.

(iv) Whitefish:

(A) Open December 1 through the last day in February for whitefish only.

(B) Whitefish gear rules.

((f)) (i) From Easton Dam to the base of Keechelus Dam including Easton Lake:

(i) Selective gear rules.

(ii) Game fish: Statewide minimum length/daily limit, except: Release rainbow and cutthroat trout.

((371)) (370) **Yakima Sportsmen's Park Ponds (Yakima County):** Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

((372)) (371) **Yocum Lake (Pend Oreille County):**

(a) Open the fourth Saturday in April through October 31.

(b) It is unlawful to use lead weights or lead jigs that measure 1.5 inches or less along the longest axis.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

#### AMENDATORY SECTION (Amending WSR 18-06-045, filed 3/1/18, effective 4/1/18)

**WAC 220-312-060 Freshwater exceptions to statewide rules—Columbia.** The following exceptions to statewide rules apply to the Columbia River, including impoundments and all connecting sloughs, except Wells Ponds:

(1) **General Columbia River rules:**

(a) In the concurrent waters of the Columbia River between Washington and Oregon, the license of either state is valid when fishing from a vessel.

(i) Anglers must comply with the fishing regulations of the state in which they are fishing.

(ii) This subsection does not allow an angler licensed in Oregon to fish on the Washington shore, or in the sloughs or tributaries in Washington except as otherwise provided by department rule.

(iii) Anglers fishing the Columbia River are restricted to one limit, as defined by the laws of the state in which they are fishing, even if they are licensed by both states.

(b) It is unlawful to possess in the field salmon or steelhead mutilated so that size, species, or fin clip cannot be determined until the angler has reached their automobile or principal means of land transportation and completed his or her daily angling.

(c) Salmon and trout handling rules provided in WAC 220-56-118 apply to the Columbia River, except from February 15 through June 15 in the mainstem Columbia from the Rocky Point/Tongue Point line upstream to the Washington-Oregon border where WAC 220-56-118 applies only to anglers fishing from vessels less than 30 feet in length (as substantiated by Coast Guard documentation or Marine Board registration).

(d) From Buoy 10 to the Washington/Oregon border:

(i) From March 1 through May 15, the mainstem Columbia River is open for retention of adipose fin-clipped steelhead and shad only during days and in areas that are open for the retention of adipose fin-clipped spring Chinook salmon.

(ii) From August 1 through December 31, each angler aboard a vessel may deploy salmon/steelhead angling gear until the salmon/steelhead limit for all anglers aboard has been achieved.

((iii) From June 16 through July 31, upstream of the Megler Astoria Bridge to McNary Dam, night closure in effect for all anglers except those enrolled in the Pikeminnow Sport Reward Program fishing and targeting pikeminnow.

((iv) From August 1 through December 31, upstream to McNary Dam, night closure in effect for all anglers except those enrolled in the Pikeminnow Sport Reward Program fishing and targeting pikeminnow.))

(e) Open year-round unless otherwise provided.

(f) Barbless hooks are required for salmon and steelhead.

(2) **Rules by river section:**

(a) **From a true north-south line through Buoy 10, upstream to a line projected from Rocky Point on the Washington bank through Red Buoy 44 to the navigation light at Tongue Point on the Oregon bank:**

(i) Fishing from the north jetty is permissible when Marine Area 1 or Buoy 10 areas are open for salmon, and the limit and minimum size restrictions follow the most liberal regulations if both areas are open. Only single point barbless hooks may be used for salmon and steelhead.

(ii) Release all trout, except anglers may retain hatchery steelhead.

(iii) Salmon and steelhead:

(A) Open June 16 through July 31: ((f)) Closed to fishing for salmon and steelhead from Buoy 10 to the Megler-Astoria Bridge.

((H)) (B) From June 16 through June 21:

(I) Daily limit 6; no more than 2 ((adult salmon, or one adult salmon and one)) hatchery steelhead((,)) may be retained.

((III)) (II) Release all salmon other than hatchery jack Chinook.

(C) From June 22 through July 4:

(I) Daily limit 6; up to 2 adult salmon or 2 hatchery steelhead or one of each may be retained.

(II) Release all salmon other than ((sockeye and)) hatchery Chinook.

((B)) (D) From July 5 through July 31:

(I) Daily limit 6; no more than 2 hatchery steelhead may be retained.

(II) Release all salmon other than hatchery jack Chinook.

(E) Open August 1 through ((September 4)) August 24:

(I) Daily limit ((2, of which only one Chinook and/or one hatchery steelhead may be retained except from August 1 through August 31 release all steelhead) one).

(II) Release all salmon except Chinook and hatchery coho.

(III) Chinook minimum length 24 inches.

(IV) Coho minimum length 16 inches.

((E)) (F) Open ((September 5)) August 25 through September 30:

(I) Daily limit 2, of which only one hatchery steelhead may be retained.

(II) Release all salmon other than hatchery coho.

(III) Coho minimum length 16 inches.

((D)) (G) Open October 1 through December 31:

(I) Limit 6; no more than 2 adult hatchery salmon, or one hatchery adult salmon and one hatchery steelhead, may be retained.

(II) Release all salmon except ((Chinook and)) hatchery coho.

((E)) (H) Open January 1 through March 31:

(I) Limit 6; no more than 2 adult hatchery Chinook, or 2 hatchery steelhead, or one of each, may be retained.

(II) Release all salmon except hatchery Chinook.

(iv) Shad open May 16 through March 31.

(v) Forage fish and bottomfish: Marine Area 1 general rules apply; eulachon closed.

(b) From a line projected from Rocky Point on the Washington bank through Red Buoy 44 to the navigation light at Tongue Point on the Oregon bank, upstream to the I-5 Bridge:

(i) Trout:

(A) Open May 16 through March 31.

(B) Release all trout except hatchery cutthroat ((and hatchery steelhead (the limit is as provided under (b)(v) of this subsection)).

((H)) Anglers may retain up to).

(C) Daily limit 2 hatchery cutthroat; minimum length 12 inches.

((H)) Hatchery cutthroat minimum length 12 inches.

((H)) (D) Barbless hooks are required for cutthroat trout.

(ii) ((Salmon and steelhead):

(A) Open May 16 through June 15:

(I) Release all salmon except hatchery jack Chinook.

(II) Limit 6; no more than 2 hatchery steelhead may be retained.

(B) Open June 16 through July 31:

(I) Release all salmon except hatchery Chinook and sockeye.

(II) Limit 6; no more than 2 adult salmon, or one adult salmon and one hatchery steelhead, may be retained.

(C) Open August 1 through September 30:

(I) Upstream of Warrior Rock line: Limit 6; no more than 2 adult salmon, or one adult salmon and one hatchery steelhead, may be retained. Release all salmon except Chinook and hatchery coho. From August 1 through August 31 release all steelhead.

(H)) Shad open May 16 through March 31.

(iii) For the purpose of this subsection, "Warrior Rock line" is defined as a line projected from the Warrior Rock

Lighthouse, through Red Buoy 4, to the orange marker atop the dolphin on the Washington shore.

(iv) Downstream of Warrior Rock line:

(A) Salmon and steelhead:

(I) Open May 16 through June 21: Daily limit 6; no more than 2 hatchery steelhead may be retained. Release all salmon except hatchery jack Chinook.

(II) Open June 22 through July 4: Daily limit 6; no more than 2 hatchery adult salmon or 2 hatchery steelhead or one of each may be retained. Release all salmon except hatchery Chinook.

(III) Open July 5 through July 31: Daily limit 6; no more than 2 hatchery steelhead may be retained. Release all salmon except hatchery jack Chinook.

(IV) Open August 1 through September 2: Daily limit 6; no more than ((2)) one adult salmon, or one ((adult salmon and one)) hatchery steelhead, may be retained. ((Only one may be an adult Chinook. Release wild Chinook from September 8 through September 14, and release all Chinook from September 15 through September 30. From August 1 through August 31 release all steelhead.

(D) For the purpose of this subsection, "Warrior Rock line" is defined as a line projected from the Warrior Rock Lighthouse, through Red Buoy 4, to the orange marker atop the dolphin on the Washington shore.

(E)) Release all salmon except Chinook and hatchery coho.

(V) Open ((October 1)) September 3 through December 31((:))

((H)): Daily limit 6; no more than 2 hatchery adult salmon, or one adult salmon and one hatchery steelhead, may be retained. ((H)) Release all salmon except Chinook and hatchery coho.

((F)) Open January 1 through March 31:

(I) Limit 6 fish; no more than 2 adult hatchery Chinook, or 2 hatchery steelhead, or one of each, may be retained.

(II) Release all salmon except hatchery Chinook.

(iii) Shad open May 16 through March 31)) (VI) Open January 1 through March 31: Daily limit 6; no more than 2 hatchery adult salmon, or 2 steelhead or one of each may be retained. Release all salmon except hatchery Chinook.

(v) Upstream of Warrior Rock line: Salmon and steelhead:

(A) Open May 16 through June 21: Daily limit 6; no more than 2 hatchery steelhead may be retained. Release all salmon except hatchery jack Chinook.

(B) Open June 16 through July 31: Daily limit 6; no more than 2 hatchery steelhead may be retained.

(C) Open June 22 through July 4: Daily limit 6; no more than 2 hatchery adult salmon or one hatchery adult salmon and one hatchery steelhead may be retained. Release all salmon except hatchery Chinook.

(D) Open January 1 through March 31: Daily limit 6; no more than 2 hatchery adult salmon, or 2 hatchery steelhead or one of each may be retained. Release all salmon except hatchery Chinook.

(E) Open August 1 through September 14: Daily limit 6; no more than one adult salmon or one hatchery steelhead. Release all salmon except Chinook and hatchery coho.

(F) Open September 15 through December 31: Daily limit 6; no more than 2 hatchery adult salmon, or one hatchery adult salmon and one hatchery steelhead, may be retained. Release all salmon except hatchery coho.

**(c) From the I-5 Bridge to Bonneville Dam:**

(i) The following waters are closed:

(A) From the upstream line of Bonneville Dam to boundary markers 600 feet below the fish ladder at the powerhouse.

(B) January 1 through April 30 from a line between the upstream end of Sand Island (near Rooster Rock) on the Columbia River, to the boundary marker on the Oregon shore, downstream to a line between the lower end of Sand Island and the boundary marker on the Oregon shore.

(C) Closed to angling from a floating device or by any method except hand-casted gear from shore from Bonneville Dam downstream to a line from the Hamilton Island boat ramp to an Oregon boundary marker on the westernmost tip of Robins Island.

(ii) Camas Slough:

(A) It is permissible for an angler licensed in Oregon or Washington to fish from a floating device.

(B) In the waters of the Columbia River downstream from the mouth of the Washougal River, north of Lady Island, and downstream of the Highway 14 Bridge at the upstream end of Lady Island:

(I) From August 1 through December 31: It is permissible to fish with two poles so long as the angler possesses a valid two-pole endorsement.

(II) From August 1 through December 31: Each angler aboard a vessel may deploy salmon/steelhead angling gear until the salmon/steelhead limit for all anglers aboard has been achieved.

(III) Open for salmon when the adjacent mainstem Columbia or Washougal rivers are open for salmon.

(IV) The limit for salmon is the same as the most liberal regulation of either area, except anglers may only retain hatchery Chinook and hatchery coho; release all other salmon.

(iii) Release all trout ((~~except hatchery steelhead~~)).

(iv) Salmon and steelhead:

(A) Open June 16 through ((July 31)) June 21: (((I))) Daily limit 6; no more than 2 ((adult salmon, or one adult salmon and one)) hatchery steelhead((;)) may be retained. (((H))) Release all salmon except hatchery jack Chinook ((and seekeye)).

(B) Open June 22 through July 4: Daily limit 6; up to 2 hatchery adult salmon or 2 hatchery steelhead or one of each may be retained. Release all salmon except hatchery Chinook.

(C) Open July 5 through July 31: Daily limit 6; no more than 2 hatchery steelhead may be retained. Release all salmon except hatchery jack Chinook.

(D) Open August 1 through ((December 31)) September 14: (((H))) Limit 6; no more than ((2)) one adult salmon((;)) or one ((adult salmon and one)) hatchery steelhead((, may be retained, except August 1 through August 31 release all steelhead.))

((H))). Release all salmon except Chinook and hatchery coho.

((H))) (E) Open September 15 through December 31: Daily limit 6; no more than 2 hatchery adult salmon, or one hatchery adult salmon and one hatchery steelhead, may be retained. Release all salmon except hatchery coho.

(F) Closed to fishing for salmon and steelhead November 1 through December 31 from Beacon Rock to Bonneville Dam.

(v) Steelhead: Open January 1 through March 31. Daily limit 2 hatchery steelhead.

(vi) Shad: Open May 16 through March 31.

**(d) From Bonneville Dam to The Dalles Dam:**

(i) Closed waters:

(A) Within one quarter mile of the USFWS Spring Creek Hatchery Grounds, between posted markers located one quarter mile on either side of the fish ladder entrance.

(B) At The Dalles between the upstream line of The Dalles Dam to the upstream side of the Interstate 197 Bridge, except that bank fishing is permitted up to the downstream navigation lock wall on the Washington shore.

(ii) Release all trout, except anglers may retain hatchery steelhead.

(iii) Salmon and steelhead:

(A) When open from March 16 through June 15:

(I) Bank fishing only from Bonneville Dam to Tower Island powerlines (approximately 6 miles below The Dalles Dam).

(II) Only hand-cast lines may be used. It is unlawful to use a floating device to set lines for salmon and steelhead.

(B) Open June 16 through July 31:

(I) Daily limit 6; no more than 2 hatchery adult salmon((;)) or ((one)) 2 hatchery adult salmon ((and one)) or 2 hatchery steelhead or one of each, may be retained.

(II) Release all salmon except ((sockeye and)) hatchery Chinook.

(C) Open August 1 through December 31:

(I) August 1 through October 15: Anti-snagging rule applies. When the anti-snagging rule is in effect, only fish hooked inside the mouth may be retained.

(II) Daily limit 6; no more than 2 adult salmon((;)) or one adult salmon and one hatchery steelhead may be retained((; except from August 1 through August 31 release all steelhead)). No more than one salmon may be an adult Chinook.

(III) Release all salmon except Chinook and coho.

(IV) Release wild coho from Bonneville Dam to Hood River Bridge.

(iv) Steelhead: Open January 1 through March 31. Daily limit 2 hatchery steelhead.

**(e) From The Dalles Dam to McNary Dam:**

(i) Closed waters:

(A) At John Day Dam between the upstream line of John Day Dam to markers approximately 3,000 feet downstream, except that bank fishing is permitted up to 400 feet below the fishway entrance on the Washington shore.

(B) At McNary Dam between the upstream line of McNary Dam downstream to a line across the river from the red and white marker on the Oregon shore on a line that intersects the downstream end of the wing-wall of the boat lock near the Washington shore.

(ii) Release all trout except hatchery steelhead.

(iii) Salmon and steelhead:

(A) When open from March 16 through June 15:

(I) Anglers may possess up to 4 hatchery adult Chinook salmon in fresh form.

(II) Anglers aboard a boat may only possess one daily limit of salmon in fresh form.

(B) Open June 16 through July 31:

(I) Daily limit 6; no more than 2 hatchery adult salmon, or 2 hatchery steelhead, or one ((adult salmon and one hatchery steelhead,)) of each may be retained.

(II) Release all salmon except hatchery Chinook ((and sockeye)).

(C) Open August 1 through December 31:

(I) August 1 through October 15: Anti-snagging rule applies. When the anti-snagging rule is in effect, only fish hooked inside the mouth may be retained.

(II) Limit 6; no more than 2 adults, of which no more than 2 may be adult salmon or one adult salmon and one hatchery steelhead((, except release all steelhead from The Dalles Dam upstream to John Day Dam September 1 through September 30 and from John Day Dam upstream to McNary Dam September 1 through October 31)). No more than one salmon may be an adult Chinook.

(III) Release all salmon except Chinook and coho.

(iv) Steelhead: Open January 1 through March 31. Daily limit 2 hatchery steelhead.

**(f) From McNary Dam to Highway 395 Bridge at Pasco:**

(i) Columbia River rules apply downstream of the Burbank-to-Pasco railroad bridge at Snake River mile 1.5.

(ii) ((From June 16 through December 31, night closure in effect for all anglers except anglers enrolled in the Pike minnow Reward Program fishing and targeting pike minnow.

((iii))) Release all trout except hatchery steelhead.

((iv))) (iii) Salmon and steelhead:

(A) When open from March 16 through June 15 from McNary Dam to the Washington/Oregon border:

(I) Anglers may possess up to 4 hatchery adult Chinook in fresh form.

(II) Anglers aboard a boat may only possess one daily limit of salmon in fresh form.

(III) From August 1 through December 31, each angler aboard a vessel may deploy salmon/steelhead angling gear until the salmon/steelhead limit for all anglers aboard has been achieved.

(B) Open June 16 through July 31:

(I) Daily limit 6; no more than 2 hatchery adult salmon, or 2 hatchery steelhead, or one ((adult salmon and one hatchery steelhead,)) of each may be retained.

(II) Release all salmon except hatchery Chinook ((and sockeye)).

(C) Open August 1 through December 31:

(I) Daily limit 6; no more than 2 adult salmon or one adult salmon and one hatchery steelhead may be retained((, except October 1 through November 30 release all steelhead)). No more than one salmon may be an adult Chinook.

(II) Release all salmon except Chinook and coho.

((III) Each angler aboard a vessel may deploy salmon/steelhead angling gear until the salmon/steelhead limit for all anglers aboard has been achieved.

((v))) (iv) Steelhead: Open January 1 through March 31. Daily limit 2 hatchery steelhead.

**(g) From the Highway 395 Bridge at Pasco to the Interstate 182 Bridge:**

(i) Closed waters: Within a 400 foot radius of the Columbia Irrigation District (CID) fish barrier at the mouth of the CID wastewater at Columbia Park.

(ii) For all open species except sturgeon: It is permissible to fish with two poles so long as the angler possesses a two-pole endorsement.

((iii) ((From October 1 through December 31, night closure in effect for all anglers except anglers enrolled in the Pike minnow Reward Program fishing and targeting pike minnow.

((iv))) Trout: Open year-round catch and release only.

((iv) Steelhead:

(A) Open October 1 through ((December 31 release all trout, except one) October 31: Daily limit 2 hatchery steelhead with both the adipose and a ventral fin clipped may be retained.

(B) ((January 1) Open November 1 through March 31 ((release all trout, except anglers may retain one)): Daily limit 2 hatchery steelhead.

(v) Salmon:

(A) Open June 16 through August 15:

(I) Limit 4; no more than one adult hatchery Chinook salmon ((and no more than 2 sockeye salmon may be retained)).

(II) Release sockeye and wild adult Chinook.

(B) Open August 16 through October ((22) 31: Limit 6; no more than 2 adult salmon may be retained. ((Once the adult salmon or steelhead limit is retained, anglers may not continue to fish for either species the remainder of the day.))

**(h) From the Interstate 182 Bridge to the Old Hanford townsite wooden powerline towers, in Sec. 30, T13N, R28E:**

(i) Closed waters:

(A) The area of the Columbia River between the markers located 100 feet upstream and 100 feet downstream of the Ringold Springs Hatchery Creek, and extending 100 feet towards the middle of the river.

(B) ((September 1 through November 30:)) West Branch Esquatzel Coulee Block 1 Irrigation Wasteway Lagoon in the Columbia River, September 1 through November 30: Closed waters.

(ii) Trout and steelhead: Ringold Area Bank Fishery waters, from WDFW markers 1/4 mile downstream from the Ringold wasteway outlet, to WDFW markers 1/2 mile upstream from Spring Creek:

(A) Fishing is allowed only from the bank and only on the hatchery side of the river.

(B) Open April 1 through April 15:

((I) Release all trout((, except anglers may retain one)).

((II) Daily limit 2 hatchery steelhead ((from April 1 through April 15)).

((C) From April 16 through March 31 adjacent Columbia River rules apply.

((iii) For all open species except sturgeon: It is permissible to fish with two poles so long as the angler possesses a two-pole endorsement.

(iv) ((From October 1 through December 31, night closure in effect for all anglers except anglers enrolled in the Pikeminnow Reward Program fishing and targeting pikeminnow.))

((v))) Trout: Open year-round catch and release only.

(v) Steelhead:

(A) Open October 1 through ((December 31 release all trout, except one)) October 31 daily limit 2 hatchery steelhead with both the adipose and a ventral fin clipped may be retained.

(B) ((January)) Open November 1 through March 31 ((release all trout, except anglers may retain one)) daily limit 2 hatchery steelhead.

(vi) Salmon:

(A) Open June 16 through August 15:

(I) Limit 6; no more than 2 adult hatchery Chinook ((and no more than 3 sockeye salmon may be retained)).

(II) Release sockeye and wild adult Chinook.

(B) Open August 16 through October ((22)) 31: Limit 6; no more than 2 adult salmon may be retained. ((Once the adult salmon or steelhead daily limit has been retained, anglers may not continue to fish for either species the remainder of the day.))

**(i) From the Old Hanford townsite wooden power line towers, in Sec. 30, T13N, R28E, to Vernita Bridge, (Highway 24):**

(i) Open February 1 through October ((22)) 15.

(ii) For all open species except sturgeon: It is permissible to fish with two poles so long as the angler possesses a two-pole endorsement.

(iii) Trout: Catch and release only.

(iv) Salmon:

(A) Open June 16 through August 15:

(I) Limit 6; no more than 2 adult hatchery Chinook ((and no more than 3 sockeye salmon may be retained)).

(II) Release sockeye and wild adult Chinook.

(B) Open August 16 through October ((22)) 15: Limit 6; no more than 2 adult salmon may be retained.

**(j) From Vernita Bridge (Highway 24) to Priest Rapids Dam:**

(i) Closed waters:

(A) At Priest Rapids Dam; waters between the upstream line of Priest Rapids Dam downstream to the boundary markers 650 feet below the fish ladders.

(B) At Jackson (Moran) Creek (waters of the Priest Rapids Hatchery system); extending to midstream of the Columbia River between boundary markers located 100 feet upstream and 400 feet downstream of the mouth of Jackson Creek.

(ii) For all open species except sturgeon: It is permissible to fish with two poles so long as the angler possesses a two-pole endorsement.

(iii) Trout: Catch and release only.

(iv) Salmon:

(A) Open June 16 through August 15:

(I) Limit 6; no more than 2 adult hatchery Chinook ((and no more than 3 sockeye salmon may be retained)).

(II) Release sockeye and wild adult Chinook.

(B) Open August 16 through October ((22)) 15: Limit 6; no more than 2 adult salmon may be retained.

**(k) From Priest Rapids Dam to Rock Island Dam:**

(i) Closed waters:

(A) Wanapum Dam, between the upstream line of Wanapum Dam to the boundary markers 750 feet downstream of the east fish ladder and 500 feet downstream of the west fish ladder.

(B) Rock Island Dam, between the upstream line of Rock Island Dam to boundary markers 400 feet downstream of the fish ladders.

(ii) July 1 through August 31: Fishing two poles is permissible so long as the angler possesses a two-pole endorsement.

(iii) Release all trout.

(iv) Steelhead: Closed to fishing.

(v) Salmon:

(A) Open July 1 through August 31:

(I) Minimum ((size)) length 12 inches; daily limit ((4)) 6; no more than 2 adult hatchery Chinook may be retained.

(II) Release coho, sockeye, and wild adult Chinook.

(B) Open September 1 through October ((22)) 15: Open for Chinook only; daily limit 6, no more than ((3)) 2 adults may be retained.

**(l) From Rock Island Dam to Wells Dam:**

(i) Closed waters:

(A) At Rocky Reach Dam between the upstream line of the dam to boundary markers 400 feet downstream of the fish ladders.

(B) At Wells Dam, between the upstream line of Wells Dam to boundary markers 400 feet downstream of the spawning channel discharge (on Chelan County side) and fish ladder (on Douglas County side).

(ii) July 1 through August 31: Fishing two poles is permissible so long as the angler possesses a two-pole endorsement.

(iii) Release all trout.

(iv) Steelhead: Closed to fishing.

(v) Salmon open July 1 through October 15:

(A) Minimum size 12 inches; limit ((4)) 6; no more than 2 adult hatchery Chinook may be retained.

(B) Release coho, sockeye, and wild adult Chinook.

**(m) From Wells Dam to Highway 173 Bridge at Brewster:**

(i) July 16 through August 31: Fishing two poles is permissible so long as the angler possesses a two-pole endorsement.

(ii) Hatchery trout: Open July 16 through August 15. Minimum size 12 inches. Daily limit 10. Barbless hooks required.

(iii) Steelhead: Closed to fishing.

(iv) Salmon open July 16 through August 31:

(A) Minimum size 12 inches; limit ((4)) 6; no more than 2 adult hatchery Chinook may be retained.

(B) Release coho, sockeye, and wild adult Chinook.

**(n) From Highway 173 Bridge at Brewster to Chief Joseph Dam:**

(i) Closed waters:

(A) From the Okanogan County shore between Chief Joseph Dam and the Highway 17 Bridge.

(B) From the Douglas County shore from Chief Joseph Dam to the rock jetty at the upstream shoreline of Foster Creek.

(ii) July 1 through August 31: Fishing two poles is permissible so long as the angler possesses a two-pole endorsement.

(iii) It is unlawful to fish from a floating device downstream of Chief Joseph Dam from the boundary marker to the Corps of Engineers safety zone marker.

(iv) Hatchery trout: Open July 1 through August 15. Minimum 12 inches. Daily limit 10. Barbless hooks required.

(v) Steelhead: Closed to fishing.

(vi) Salmon: Open July 1 through October 15:

(A) Minimum size 12 inches; limit ((4)) 6; no more than 2 adult hatchery Chinook may be retained.

(B) Release coho, sockeye, and wild adult Chinook.

(o) **Above Chief Joseph Dam:** See Rufus Woods Lake in WAC 220-310-195.

(p) **Above Grand Coulee Dam:** See Lake Roosevelt in WAC 220-310-195.

**AMENDATORY SECTION** (Amending WSR 17-16-109, filed 7/28/17, effective 8/28/17)

#### **WAC 220-313-060 Puget Sound salmon—Saltwater seasons and daily limits.**

(1) It is unlawful to fish for or possess salmon taken by angling for personal use except from the following Puget Sound areas and during the seasons, in the quantities, and for the species designated in this section, and in the sizes as defined in WAC 220-313-010. An area is open when a daily limit is provided. Puget Sound waters west of the mouth of the Sekiu River are managed concurrent with ocean waters under WAC 220-313-070.

##### **(2) Catch Record Card Area 5:**

(a) May 1 through June 30: Closed.

(b) July 1 through August 15:

(i) Daily limit of 2 salmon.

(ii) Release chum, wild Chinook and wild coho.

(iii) 2 Additional sockeye salmon may be retained as part of the daily limit.

(c) August 16 through ((August 31)) September 30.

(i) Daily limit of 2 salmon.

(ii) Release chum, Chinook and wild coho.

(iii) 2 Additional sockeye salmon may be retained as part of the daily limit.

(d) ((September)) October 1 through ((March)) February 15: Closed.

(e) ((March)) February 16 through April 30:

(i) Daily limit of 2 salmon.

(ii) Release coho and wild Chinook.

##### **(3) Catch Record Card Area 6:**

(a) May 1 through June 30: Closed.

(b) July ((4)) 3 through August 15:

(i) Daily limit of 2 salmon.

(ii) Release chum, wild Chinook and wild coho.

(iii) 2 Additional sockeye salmon may be retained as part of the daily limit.

(iv) Release all Chinook east of a true north-south line through the Number 2 Buoy immediately east of Ediz Hook.

((iv) 2 additional sockeye salmon may be retained as part of the daily limit.))

(c) Waters of Port Angeles Harbor west of a line from the tip of Ediz Hook to the ITT Rayonier Dock are closed July 1 through August 15.

(d) August 16 through ((February 28: Closed except in Dungeness Bay as described in this section.

((e) March)) September 30:

(i) Daily limit of 2 salmon.

(ii) Release chum, Chinook and wild coho.

(iii) 2 Additional sockeye salmon may be retained as part of the daily limit.

(e) October 1 through January 31: Closed except in Dungeness Bay as described in this section.

((f) February 1 through April 15:

(i) Daily limit of ((2)) 1 salmon.

(ii) Release wild coho and wild Chinook.

((g)) ((g)) (h) April 16 through April 30: Closed.

((g)) ((h)) Waters of Dungeness Bay inside a line from Dungeness Spit Lighthouse to the Number 2 Red Buoy, and then to the Port Williams Boat Ramp are closed except: October 1 through October 31: Daily limit of 2 hatchery coho only.

##### **(4) Catch Record Card Area 7:**

(a) May 1 through June 30: Closed.

(b) July 1 through July 31:

(i) Daily limit of 2 salmon.

(ii) Release ((eeho)) chum and wild Chinook.

(iii) 2 Additional sockeye salmon may be retained as part of the daily limit.

(iv) Closed to salmon fishing in the Southern Rosario Strait and Eastern Strait of Juan de Fuca closure area described in WAC 220-313-020(7).

(c) August 1 through September ((30)) 3:

(i) Daily limit of 2 salmon; no more than one may be a Chinook salmon.

(ii) Release chum ((and eeho)).

(iii) 2 Additional sockeye salmon may be retained as part of the daily limit.

(iv) Closed to salmon fishing in the Southern Rosario Strait and Eastern Strait of Juan de Fuca closure area described in WAC 220-313-020(7).

(d) September 4 through September 30:

(i) Daily limit of 2 salmon.

(ii) Release chum and Chinook.

(iii) October 1 through December 31: Closed.

(e) Closed to salmon fishing in Samish Bay area described in WAC 220-313-020(7).

(f) January 1 through April ((30)) 15:

(i) Daily limit of 1 salmon.

(ii) Release coho and wild Chinook.

(g) Waters of Bellingham Bay described in WAC 220-313-020(1):

(i) Closed March 1 through April 30 and July 1 through August 15.

(ii) August 16 through September 30: Daily limit of 4 salmon; no more than 2 may be Chinook salmon.

(iii) October 1 through February 28 and June 1 through June 30: Same rules as Area 7.

(h) Waters east of a line from Gooseberry Point to Sandy Point: Closed September 8 through September 30.

**(5) Catch Record Card Area 8-1:**

(a) May 1 through ((October)) July 31: Closed.

(b) ((November)) August 1 through September 30:

(i) Daily limit 2 salmon.

(ii) Release Chinook.

(c) October 1 through November 30: Closed.

(d) December 1 through April 30:

(i) Daily limit of ((+)) 2 salmon.

(ii) Release coho and wild Chinook.

**(6) Catch Record Card Area 8-2:**

(a) May 1 through ((October)) July 31 are closed, except waters described in this subsection.

(i) Waters west of Tulalip Bay and within 2,000 feet of shore from the pilings at Old Bower's Resort to a fishing boundary marker approximately 1.4 miles northwest of Hermosa Point are open only from Friday through 11:59 a.m. the following Monday of each week, ((May 26)) June 1 through September ((5)) 3: Daily limit of 2 salmon.

(ii) Waters west of Tulalip Bay and within 2,000 feet of shore from the pilings at Old Bower's Resort to a fishing boundary marker approximately 1.4 miles northwest of Hermosa Point are open only from Saturday through Sunday of each week, September ((6)) 8 through September 30: Daily limit of 2 salmon.

((iii) It is permissible to fish from shore in waters on Whidbey Island from Possession Point (Catch Record Card Area 8-2 and 9 border) north to the northern boundary of Possession Point Waterfront Park from August 1 through September 4: Daily limit of 2 hatchery coho.))

(b) ((November)) August 1 through September 23:

(i) Daily limit of 2 salmon.

(ii) Release Chinook.

(c) September 24 through November 30: Closed.

(d) December 1 through April 30:

(i) Daily limit of ((+)) 2 salmon.

(ii) Release coho and wild Chinook.

**(7) Catch Record Card Area 9:**

(a) May 1 through July 15: Closed.

(b) July 16 through August 15, except waters in this subsection:

(i) Daily limit of 2 salmon; no more than one may be a Chinook salmon.

(ii) Release chum, wild coho and wild Chinook.

(iii) Closed south of a line from Foulweather Bluff to Olele Point July 16 through August 15 ((except it is permissible to fish from shore in waters south of a line from Foulweather Bluff to Olele Point)):)

(A) Daily limit of 2 salmon.

(B) Release Chinook, chum and wild coho.

((C) Closed east of a line from the eastern boundary of Salsbury Point Park extending north to a line with the intersection of NE Cliffside Road and Hood Canal Drive NE.

((e) Closed August 16 through September 4 except it is permissible to fish from shore:)) (c) August 16 through September 30:

(i) Daily limit of 2 salmon.

(ii) Release Chinook, chum and wild coho.

((iii) Closed east of a line from the eastern boundary of Salsbury Point Park extending north to a line with the intersection of NE Cliffside Road and Hood Canal Drive NE.))

(d) ((September 5)) October 1 through ((October)) December 31: Closed.

(e) ((November)) January 1 through ((November 30)) April 15:

(i) Daily limit of 1 salmon.

(ii) Release wild coho and wild Chinook.

(f) ((December 1 through January 15: Closed.

(g) January 16 through April 15:

(i) Daily limit of 1 salmon.

(ii) Release coho and wild Chinook.

(h)) April 16 through April 30: Closed.

((i)) (g) Edmonds Fishing Pier:

(i) Open year-round.

(ii) Daily limit of 2 salmon; no more than one may be a Chinook salmon.

(iii) Release chum from August 1 through September 30.

**(8) Catch Record Card Area 10:**

(a) May 1 through ((June 30)) May 31: Closed.

(b) ((July)) June 1 through July 15:

(i) Daily limit of 2 salmon.

(ii) Release Chinook((g)) and chum ((and wild coho)).

(c) July 16 through August ((15)) 31:

(i) Daily limit of 2 salmon; no more than one may be a Chinook salmon.

(ii) Release chum((, wild coho)) and wild Chinook.

(d) ((August 16)) September 1 through ((October 31)) November 15:

(i) Daily limit of 2 salmon.

(ii) Release Chinook ((and wild coho)).

(iii) Release chum ((August 16)) September 1 through September 15.

(e) Waters of Shilshole Bay southeast of a line from Meadow Point to West Point: Closed July 1 through August ((31)) 15.

(f) Waters of Elliott Bay east of a line from West Point to Alki Point: Closed July 1 through August 31, except: ((+)) Those waters east of a line from Pier 91 to Duwamish Head, open August 11 through August 13 only.

(A) Daily limit of 2 salmon.

(B) Release chum and wild coho.

((i))) In years ending in odd numbers: Those waters north of a line from Jack Block Park through the north tip of Harbor Island to shore northeast of the North Waterway (47°35.47'N, 122°20.58'W), open August 15 through August 31 from Friday through Sunday of each week only.

((A))) (i) Daily limit of 2.

((B))) (ii) Release Chinook, chum and wild coho.

(g) Waters of Sinclair Inlet and Port Orchard south of the Manette Bridge in Bremerton, south of a line true west from Battle Point, and west of a line drawn true south from Point White:

(i) ((Daily limit of 3 salmon,)) July 1 through September 30.

(ii) Daily limit of 3 salmon.

(iii) Release wild Chinook and wild coho.

((iii))) (iv) Release chum from August 1 through September 15.

(h) November ((+)) 16 through ((February 28)) December 31: Closed.

(i) January 1 through March 31:

((i))) (ii) Daily limit of 2 salmon((; no more than one may be a Chinook salmon.))

((i)))

(iii) Release wild Chinook ((and wild coho)).

(i) Waters of Agate Pass west of a line from Point Monroe to Indianola and east of a line from Point Bolin to Battle Point: Fly fishing only, lead core lines prohibited, and catch and release from January 1 through January 31.

(j) ((March)) April 1 through April 30: Closed.

(k) Elliott Bay Fishing Pier at Terminal 86, Seacrest Pier, Waterman Pier, Bremerton Boardwalk, and Illahee State Park Pier, open year-round:

(i) Daily limit of 2 salmon; no more than one may be a Chinook salmon.

(ii) Release chum from August 1 through September 15.

(l) Duwamish Waterway downstream from an east-west line projected through southernmost tip of Harbor Island to a line extending from Jack Block Park through the northernmost tip of Harbor Island extending to shore northeast of the North Waterway (47°35.47'N, 122°20.58'W), from July 1 through October 31 night closure, anti-snagging rule, and only fish hooked inside the mouth may be retained.

(m) Free-flowing freshwaters are closed downstream of the mouth at Gorst Creek, from July 1 through September 30.

(9) **Catch Record Card Area 11:**

(a) May 1 through May 31: Closed.

(b) June 1 through ((October 31)) September 30:

(i) Daily limit of 2 salmon of which one may be a hatchery Chinook.

(ii) Release wild Chinook.

(c) October 1 through April 30:

(i) Daily limit 2 salmon.

(ii) Release wild Chinook.

(iii) Waters of Commencement Bay east of a line from the Cliff House Restaurant to the Sperry Ocean Dock are closed June 1 through July 31 and April 1 through April 30.

((e)) November 1 through April 30:

(i) Daily limit of 2 salmon.

((ii)) Release wild Chinook and wild coho.

((iii)) Waters of Commencement Bay east of a line from the Cliff House Restaurant to the Sperry Ocean Dock, closed from April 1 through April 30.)

(d) Dash Point Dock, Les Davis Pier, Des Moines Pier, Redondo Pier, and Point Defiance Boathouse Dock, open year-round: Daily limit of 2 salmon; no more than one may be a Chinook salmon.

(10) **Catch Record Card Area 12:**

(a) May 1 through June 30: Closed.

(b) July 1 through September 30, in waters south of Aycock Point except waters listed in this subsection:

(i) Daily limit of 4 salmon.

(ii) Release chum and wild Chinook.

(iii) Waters within a 2,000-foot arc seaward of yellow buoys at the mouth of Finch Creek at Hoodsport Salmon Hatchery:

(A) Daily limit of 4 salmon.

(B) Release chum and wild Chinook.

(C) It is unlawful to fish for or possess salmon taken from these waters from one hour after sunset to one hour before sunrise.

(D) It is unlawful to fish from any Hoodsport Salmon Hatchery structure except persons with disabilities who permanently use a wheelchair and who have a designated harvester card under WAC 220-220-240 may fish from the ADA-access site at the Hoodsport Salmon Hatchery, as long as persons follow all applicable department rules.

(c) ((In years ending in even numbers, August 16)) September 1 through September 30, in waters north of Aycock Point:

(i) Daily limit of 4 salmon.

(ii) Release chum and Chinook.

(iii) Waters north of a line true east from Broad Spit: Closed September 16 through September 30.

(d) ((In years ending in odd numbers, August 1 through September 30, in waters north of Aycock Point:

(i) Daily limit of 4 salmon.

(ii) Release chum and Chinook.

(iii) August 1 through August 15: Only hooks measuring one half inch or less from point to shank may be used.

(iv) Waters north of a line true east from Broad Spit: Closed September 16 through September 30.

((e))) From August 1 through August 31: North of a true east line from the mouth of Turner Creek to the Toandos Peninsula and south of a line true east of Broad Spit:

(i) Daily limit 4.

(ii) Coho only.

(e) October 1 through December 31:

(i) Waters north of a line true east from Broad Spit - Closed.

(ii) All other waters except waters listed in this subsection:

(A) Daily limit of 4 salmon; no more than 2 may be Chinook salmon.

(B) Release wild Chinook. Release chum October 1 through October 15.

(iii) Waters within a 2,000-foot arc seaward of yellow buoys at the mouth of Finch Creek at Hoodsport Salmon Hatchery:

(A) Daily limit of 4 salmon.

(B) Release wild Chinook. Release chum October 1 through October 15.

(C) It is unlawful to fish for or possess salmon taken from these waters from one hour after sunset to one hour before sunrise.

(D) It is unlawful to fish from any Hoodsport Salmon Hatchery structure except persons with disabilities who permanently use a wheelchair and who have a designated harvester card under WAC 220-220-240 may fish from the ADA-access site at the Hoodsport Salmon Hatchery, as long as persons follow all applicable department rules.

(f) January 1 through April 30:

(i) Daily limit of 2 salmon.

(ii) Release wild Chinook.

(g) July 1 through September 30: Free-flowing freshwater is closed downstream of the mouth of the Dewatto, Dosewallips, Duckabush, Hamma Hamma, and Skokomish rivers.

**(11) Catch Record Card Area 13:**

(a) May 1 through April 30:

(i) Daily limit of 2 salmon.

(ii) Release wild Chinook and wild coho.

(b) Waters at the mouth of Minter Creek within 1,000 feet of the outer oyster stakes are closed April 16 through September 30.

(c) Waters of Budd Inlet south of the Fourth Avenue Bridge are closed.

(i) Contiguous waters north of the Fourth Avenue Bridge and south of a line from the northwest corner of the Thriftway Market building and a point 100 yards north of the railroad bridge on the western shore are closed July 16 through October 31.

(ii) Waters north of the Thriftway Market-railroad bridge line and south of a line projected due west from the KGY radio tower: Night closure and anti-snagging rule from July 16 through October 31.

(d) Fox Island Public Fishing Pier, open year-round: Daily limit 2 salmon; no more than one may be a Chinook salmon.

(12) A violation of this section is an infraction, punishable under RCW 77.15.160, unless the person has harvested salmon. If the person has harvested salmon, the violation is punishable under RCW 77.15.380, Unlawful recreational fishing in the second degree—Penalty, unless the salmon are taken in the amounts or manner to constitute a violation of RCW 77.15.370, Unlawful recreational fishing in the first degree—Penalty.

**AMENDATORY SECTION** (Amending WSR 17-19-009, filed 9/7/17, effective 10/8/17)**WAC 220-313-070 Coastal salmon—Saltwater seasons and daily limits.** (1) It is unlawful to take, fish for, or possess salmon taken by angling for personal use except from the following coastal areas, during the following seasons, in the quantities and the sizes provided for in WAC 220-313-010, and for the species designated in this section. An area is open when a daily limit is provided:**(2) Catch Record Card Area 1:**

(a) May 1 through June 23: Closed.

(b) ((July)) June 24 through September 4:

(i) Daily limit of 2 salmon; no more than one may be a Chinook.

(ii) Release wild coho.

(c) September 5 through April 30: Closed.

(d) Closed in the Columbia River Mouth Control Zone 1 during all open periods. See WAC 220-313-020.

**(3) Catch Record Card Area 2:**

(a) May 1 through June 30: Closed.

(b) July 1 through September 4:

(i) Daily limit of 2 salmon; no more than one may be a Chinook.

(ii) Release wild coho.

(iii) Beginning August 14, the Grays Harbor Control Zone is closed. Grays Harbor Control Zone - The area defined by a line drawn from the Westport Lighthouse (46°53.18'N latitude, 124°07.01'W longitude) to Buoy #2 (46°52.42'N latitude, 124°12.42'W longitude) to Buoy #3

(46°55.00'N latitude, 124°14.48'W longitude) to the Grays Harbor north jetty (46°55.36'N latitude, 124°10.51'W longitude).

(c) September 5 through April 30 - Closed.

**(4) Willapa Bay (Catch Record Card Area 2-1):**

(a) May 1 through June 30: Closed.

(b) July 1 through July 31: Open concurrent with Area 2 when Area 2 is open for salmon angling. Area 2 rules apply.

(c) August 1 through January 31:

(i) Daily limit of 6 salmon; no more than 3 may be adult salmon of which only one may be a coho.

(ii) Release wild Chinook.

(iii) Beginning August 1, the Willapa Bay Control Zone is closed. The Willapa Bay Control Zone area is defined as waters east of a line drawn from Leadbetter Point (46°39.20'N, 124°3.516'W) due west to 46°39.20'N, 124°5.3'W then due north to the westerly most landfall on Cape Shoalwater (46°44.66'N, 124°5.3'W) and west from a line drawn from Leadbetter Point (46°39.20'N, 124°3.516'W) through green marker 11 to landfall.

(iv) Anglers in possession of a valid two-pole endorsement may use up to two lines while fishing.

((+))) (v) Waters north of a line from Toke Point channel marker 3 easterly through Willapa Harbor channel marker 13 (green) then, northeasterly to the power transmission pole located at 46°43.19'N, 123°50.83'W are closed August 1 through September 30.

(d) February 1 through April 30: Closed.

**(5) Grays Harbor (Catch Record Card Area 2-2 east of the Buoy 13 line):**(a) Humptulips North Bay Fishery is defined as northerly of a line running from the south end of the eastern jetty at Ocean Shores Marina, then to a fishing boundary marker on Sand Island (46°57.52'N, 124°03.36'W) then to the Tripod Station located at 46°59.12'N, 124°00.72'W on Brackenridge Bluff.(b) East Grays Harbor Fishery is defined as easterly of a projected line from the mouth of Johns River (Highway 105 bridge) to the Tripod Station on Brackenridge Bluff (46°59.12'N, 124°00.72'W) through channel marker 27 (green).

(c) May 1 through July 31: Closed.

((+))) (d) August 1 through September 15:

(i) Daily limit of 2 salmon.

(ii) Release wild Chinook and wild coho.

(iii) Waters south of a line running from the south end of the eastern jetty at Ocean Shores Marina to the fishing boundary marker on Sand Island (46°57.52'N, 124°03.36'W) to the Tripod Station on Brackenridge Bluff (46°59.12'N, 124°00.72'W) are closed.

((+))) (e) September 16) (e) October 1 through November 30:

(i) Daily limit of ((2)) 1 salmon((, of which one may be a wild coho)).

(ii) Release Chinook.

(iii) Waters west of a line running from the Tripod Station on Brackenridge Bluff (46°59.12'N, 124°00.72'W) through channel marker 27 (green) to the mouth of Johns River (Highway 105 Bridge) are closed.

((+))) (f) December 1 through April 30: Closed.

((e)) (g) Notwithstanding the provisions of this subsection, the Westport Boat Basin and Ocean Shores Boat Basin are open only August 16 through January 31:

(i) Daily limit of 6 salmon; no more than 4 may be adult salmon.

(ii) Release Chinook.

(iii) Night closure and anti-snagging rule in effect.

**(6) Grays Harbor (Catch Record Card Area 2-2 west of the Buoy 13 line):**

(a) May 1 through June 30: Closed.

(b) July 1 through August 13: Open concurrent with Area 2 when Area 2 is open for salmon angling. Area 2 rules apply.

(c) August 14 through April 30: Closed.

**(7) Catch Record Card Area 3:**

(a) May 1 through June 23: Closed.

(b) June 24 through September 4:

(i) Daily limit of 2 salmon.

(ii) Release wild coho.

(c) September 5 through April 30: Closed.

**(8) Catch Record Card Area 4:**

(a) May 1 through June 23: Closed.

(b) June 24 through September 4:

(i) Daily limit of 2 salmon.

(ii) Release wild coho.

(iii) Waters east of a true north-south line through Sail Rock are closed through July 31.

(iv) Waters east of the Bonilla-Tatoosh line closed to Chinook retention beginning August 1.

(v) Release chum salmon beginning August 1.

(c) September 5 through April 30: Closed.

(9) A violation of this section is an infraction, punishable under RCW 77.15.160, unless the person has harvested salmon. If the person has harvested salmon, the violation is punishable under RCW 77.15.380, Unlawful recreational fishing in the second degree—Penalty, unless the salmon are taken in the amounts or manner to constitute a violation of RCW 77.15.370, Unlawful recreational fishing in the first degree—Penalty.

due to the transfer of the military person, and where the applicant must complete specific additional licensing requirements in Washington state. In addition, the board adopted updates to the sexual misconduct rules in order to comply with RCW 18.130.050 and Executive Order 06-03. The adopted rules clarify what forcible or nonconsensual acts are within the definition of sexual misconduct to establish clearer standards of conduct for physical therapists and physical therapist assistants.

Citation of Rules Affected by this Order: New WAC 246-915-039, 246-915-076 and 246-915-181; repealing WAC 246-915-070, 246-915-220, 246-915-230, 246-915-240, 246-915-250, 246-915-260, 246-915-270 and 246-915-280; and amending WAC 246-915-010, 246-915-020, 246-915-030, 246-915-040, 246-915-050, 246-915-075, 246-915-078, 246-915-085, 246-915-086, 246-915-100, 246-915-105, 246-915-120, 246-915-130, 246-915-140, 246-915-182, 246-915-187, 246-915-190, 246-915-200, 246-915-210, 246-915-300, 246-915-310, 246-915-320, 246-915-330, 246-915-350, 246-915-360, and 246-915-370.

Statutory Authority for Adoption: RCW 18.74.023.

Other Authority: Chapter 18.74 RCW, RCW 18.340.-020.

Adopted under notice filed as WSR 18-07-106 on March 21, 2018.

Changes Other Than Editing from Proposed to Adopted Version: Several nonsubstantive changes were made between the proposed and adopted rule versions. Many of the changes were editorial in nature, but some language was inserted to make the rule meaning more clear, and to avoid confusion for practitioners and the public. In addition to the editorial changes, the following clarifying changes were made upon adoption of the rule.

WAC 246-915-050(1) changed "the practitioner must" to "the applicant shall."

WAC 246-915-050(2) changed "If the license has expired for more than one renewal cycle but less than three years" to "If the license has expired for more than one renewal cycle." Changed "the applicant must" to "the applicant shall."

WAC 246-915-050(3) changed "If the license has expired for more than three years but less than five years" to "If the license has expired for more than one renewal cycle but less than five years." Also, changed "the practitioner must" to "the applicant shall."

WAC 246-915-050(4) changed "the applicant must" to "the applicant shall."

WAC 246-915-085 (1), (3), (f) separated the "hours" from the "required documentation" under WAC 246-915-085 (1)(f).

WAC 246-915-085 (1), (3), (h) moved the language "one quarter credit is equal to ten hours; one trimester is equal to twelve hours; and one semester credit is equal to fifteen hours" to the "Required Documentation" section of the table.

A final cost-benefit analysis is available by contacting Kris Waideley, Program Manager, P.O. Box 47852, Olympia, WA 98504-7852, phone 360-236-4847, fax 360-236-2901, TTY 360-833-6388 or 711, email kris.waideley@doh.wa.gov, web site doh.wa.gov.

**WSR 18-15-067  
PERMANENT RULES  
DEPARTMENT OF HEALTH**

(Board of Physical Therapy)

[Filed July 17, 2018, 6:22 a.m., effective August 17, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Chapter 246-915 WAC, Physical therapists and physical therapist assistants, the board of physical therapy (board) has adopted rules that incorporate current minimum standards of care as well as general updates, revisions, and housekeeping amendments. The board also adopted a new section of rule that establishes the process and criteria for applicants who are military spouses or state-registered domestic partners of military personnel to obtain a temporary practice permit as a physical therapist or physical therapist assistant. The rule implements chapter 18.340 RCW regarding military spouses who moved to the state of Washington

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 2, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 26, Repealed 8.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 3, Amended 26, Repealed 8.

Date Adopted: April 30, 2018.

Renee Compton  
Chair

**AMENDATORY SECTION** (Amending WSR 08-17-026, filed 8/13/08, effective 8/13/08)

**WAC 246-915-010 Definitions.** ((For the purposes of this chapter and administering chapter 18.74 RCW, the following words and phrases have the following meanings:

(1) The "performance of tests of neuromuscular function" includes the performance of electroneuromyographic examinations.

(2)) The definitions in this section apply throughout this chapter unless the context indicates otherwise:

(1) "Board" means the Washington state board of physical therapy.

(2) "CAPTE" means the commission on accreditation for physical therapy education.

(3) "Consultation" means a communication regarding a patient's evaluation and proposed treatment plan with an authorized health care practitioner.

((3) "Supervisor" means the licensed physical therapist.)

(4) "Department" means the Washington state department of health.

(5) "Direct supervision" means the supervisor shall:

(a) Be continuously on-site and present where the person being supervised is performing services;

(b) Be immediately available to assist the person being supervised in the services being performed; and

(c) Maintain continued involvement in appropriate aspects of each treatment session in which a component of treatment is delegated to assistive personnel or is required to be directly supervised under RCW 18.74.180.

(6) "Indirect supervision" means the supervisor is not on the premises, but has given either written or oral instructions for treatment of the patient and the patient has been examined by the physical therapist at such time as acceptable health care practice requires, and consistent with the particular delegated health care task.

(7) "NPTE" means the National Physical Therapy Examination.

(8) "Other assistive personnel" means other trained or educated health care personnel, not defined in subsection (12)(a) or (b) of this section, who perform specific designated tasks related to physical therapy under the supervision of a physical therapist including, but not limited to, licensed massage therapists, licensed athletic trainers, and exercise physiologists. At the direction of the supervising physical therapist, and if properly credentialed and not prohibited by any other law, other assistive personnel may be identified by the title specific to their training or education.

(9) "Physical therapist" means a person who meets all the requirements of this chapter and is licensed as a physical therapist under chapter 18.74 RCW.

(10) "Sharp debridement" means the removal of devitalized tissue from a wound with scissors, scalpel, and tweezers without anesthesia. Sharp debridement does not mean surgical debridement.

(11) "Spinal manipulation" includes spinal manipulation, spinal manipulative therapy, high velocity thrust maneuvers, and grade five mobilizations of the spine and its immediate articulations.

(12) "Trained supportive personnel" means:

(a) "Physical therapist assistant." An individual who meets all the requirements of this chapter and is licensed as a physical therapist assistant and who performs physical therapy procedures and related tasks that have been selected and delegated only by the supervising physical therapist((. However, a physical therapist may not delegate sharp debridement to a physical therapist assistant)); or

(b) "Physical therapy aide." An individual who is involved in direct physical therapy patient care who does not meet the definition of a physical therapist or physical therapist assistant and receives ongoing on-the-job training.

((5) "Direct supervision" means the supervisor is on the premises, is quickly and easily available and the patient has been examined by the physical therapist at such time as acceptable physical therapy practice requires, consistent with the delegated health care task.

((6) "Indirect supervision" means the supervisor is not on the premises, but has given either written or oral instructions for treatment of the patient and the patient has been examined by the physical therapist at such time as acceptable health care practice requires, and consistent with the particular delegated health care task.

(7) "Acquired immunodeficiency syndrome" or "AIDS" means the clinical syndrome of HIV related illness as defined by the board of health by rule.

(8) "Office on AIDS" means the section within the department of social and health services or any successor department with jurisdiction over public health matters as defined in chapter 70.24 RCW.

(9) "Spinal manipulation" or "manipulative mobilization" means movement beyond the normal physiological range of motion.

(10) "Patient reevaluation" means the licensed physical therapist must physically observe and interview the patient.))

**AMENDATORY SECTION** (Amending WSR 08-17-026, filed 8/13/08, effective 8/13/08)

**WAC 246-915-020 Physical therapist and physical therapist assistant examinations—Prior to graduation.**

(1) Physical therapy students in their last year of education may apply for licensure by examination prior to graduation ((under the following circumstances:

(a) Receipt of if the department receives a letter from an official((, of their)) of the student's physical therapy school((;)) verifying the probability of graduation prior to the date of the examination for which they are applying. Students may apply to take the exam up to one hundred fifty days prior to graduation.

((b) Results of the examination will be withheld)) (2) The department will not issue a credential until:

(a) A diploma, an official transcript, or certification letter from the registrar's office certifying completion of all requirements for degree or certificate in physical therapy ((is)) are received by the department; and

(b) A passing NPTE score is received by the department.

((2) Applicants who do not pass the examination after two attempts shall demonstrate evidence satisfactory to the board of having successfully completed clinical training and/or course work as determined by the board before being permitted two additional attempts.))

**AMENDATORY SECTION** (Amending WSR 08-17-026, filed 8/13/08, effective 8/13/08)

**WAC 246-915-030 Examination.** ((+)) The examination acceptable ((to)) and approved for use under the provisions of RCW 18.74.035 ((shall be the examination)) is the NPTE.

(1) For a physical therapist((s and physical therapist assistants as reviewed and approved by the board of physical therapy. A passing score is considered to be one of the following:

(a) Beginning November 8, 1995, the criterion referenced passing point recommended by the Federation of State Boards of Physical Therapy for the examination approved by the board. The passing point shall be set to equal a scaled score of 600 based on a scale ranging from 200 to 800.

(b) Beginning February 28, 1991, through July 12, 1995, not less than sixty-eight percent of the raw score for the examination approved by the board; or

(c) Prior to February 28, 1991, not less than sixty percent raw score on each of the three examination parts for the examination approved by the board.

(2) If a candidate fails to receive a passing score on the examination, he or she will be required to retake the examination.

(3) Where necessary, applicant's score will be rounded off to the nearest whole number.) a passing score is considered to be one of the following:

(a) Beginning November 8, 1995, the criterion referenced passing point shall be set to equal a scaled score of six hundred based on a scale ranging from two hundred to eight hundred.

(b) Beginning February 28, 1991, through July 12, 1995, not less than sixty-eight percent of the raw score.

(c) Prior to February 28, 1991, not less than sixty percent raw score on each of the three examination parts.

(2) For a physical therapist assistant a passing score is considered to be one of the following:

(a) Beginning November 8, 1995, the criterion referenced passing point shall be set to equal a scaled score of six hundred based on a scale ranging from two hundred to eight hundred.

(b) Prior to November 8, 1995, a passing score is answering correctly seventy percent of the total number of questions.

(3) If a physical therapist or physical therapist assistant candidate fails to receive a passing score, he or she will be required to retake the NPTE.

(4) The department will issue a license by endorsement to an applicant who is currently licensed as a physical therapist or physical therapist assistant under the laws of another state provided the requirements for registration or licensure under the appropriate category in that state, including minimal education and passing score on the NPTE, were substantially equal to the requirements in force in this state on the date of the applicant's initial licensure in the other state.

(5) An applicant may take the NPTE a maximum of six times, except that applicants who receive two very low scores on the exam will not be allowed to test again. A very low score is defined as performing at or below chance level (scale score four hundred and below).

## NEW SECTION

**WAC 246-915-039 Initial eligibility and application requirements.** (1) An applicant for physical therapist license shall submit to the department:

- (a) A completed application;
- (b) The application and licensing fees required under WAC 246-915-990;
- (c) An official transcript from CAPTE; and
- (d) Verification of passing NPTE scores.

(2) An applicant for physical therapist assistant license shall submit to the department:

- (a) A completed application;
- (b) The application and licensing fees required under WAC 246-915-99005;
- (c) An official transcript from CAPTE; and
- (d) Verification of passing NPTE scores.

**AMENDATORY SECTION** (Amending WSR 05-06-022, filed 2/22/05, effective 3/25/05)

**WAC 246-915-040 Licensure by endorsement((—Applicants from approved schools)).** (1) ((Before licensure by endorsement is extended to any individual licensed to practice physical therapy under the law of another state, territory, or District of Columbia, the applicant shall have graduated from a board approved school, shall have taken the examination for physical therapy and shall have achieved a passing score approved by the board.)) An applicant for licensure as a physical therapist or physical therapist assistant who is currently registered, certified, or licensed under the laws of another state or territory, or the District of Columbia,

with substantially equal requirements of this chapter shall file an application and submit to the department:

(a) Documentation verifying graduation from a board approved school as described in WAC 246-915-100 and 246-915-105; and

(b) Verification of passing NPTE scores as described in WAC 246-915-030.

(2) If ((the decision to extend licensure by endorsement is based on)) the applicant took an examination other than the ((examination approved in WAC 246-915-030(1))) NPTE, the board shall determine if such examination is equivalent to that required by the laws of this state.

(3) ((The board shall not recommend to the secretary that a person be licensed as a physical therapist under the licensure by endorsement provisions of RCW 18.74.060, unless said applicant shall have taken and passed the examination approved by the board, or other examination equivalent to that required by the laws of this state.

(4)) If ((a licensee)) an applicant has not ((worked in physical therapy)) been actively engaged in lawful practice in another state, territory, or District of Columbia in the last three years, the applicant may be granted licensure by endorsement under the following conditions:

(a) The board may require ((reexamination of an)) the applicant ((who has not been actively engaged in lawful practice in another state or territory)) to retake and pass the NPTE; or

(b) The board may waive reexamination in favor of evidence of continuing competency satisfactory to the board.

(4) If the applicant has not been actively engaged in lawful practice in another state, territory, or District of Columbia in the last five years or longer, the applicant may be granted licensure by endorsement under the following conditions:

(a) The applicant completes the continuing competency requirements found in WAC 246-915-085; and

(b) The applicant retakes and passes the NPTE.

**AMENDATORY SECTION** (Amending WSR 05-03-009, filed 1/6/05, effective 2/6/05)

**WAC 246-915-050 ((Reinstatement.)) Reactivation of expired credential.** To reactivate an expired license:

(1) If the license has expired for ((three years)) one renewal cycle or less, the ((practitioner must)) applicant shall meet the applicable requirements of chapter 246-12 WAC, Part 2.

(2) If the license has expired for ((over three years)) more than one renewal cycle and the ((practitioner)) applicant has been in active practice in another United States jurisdiction, the ((practitioner must)) applicant shall:

(a) Submit verification of active practice from ((any)) the other United States jurisdiction; and

(b) Meet the applicable requirements of chapter 246-12 WAC, Part 2.

(3) If the license has expired for ((over three years)) more than one renewal cycle but less than five years, and the ((practitioner)) applicant has not been in active practice in another United States jurisdiction, the ((practitioner must)) applicant shall meet the applicable requirements of chapter 246-12 WAC, Part 2. ((Before recommending reinstatement,

the board may require reexamination and may impose any other requirements necessary to ensure professional competence and protect the public.))

(4) If the license has expired for five years or more, and the applicant has not been in active practice in another United States jurisdiction, the applicant shall meet applicable requirements of chapter 246-12 WAC, Part 2, and retake and pass the NPTE.

**AMENDATORY SECTION** (Amending WSR 08-17-026, filed 8/13/08, effective 8/13/08)

**WAC 246-915-075 Temporary permit((s—Issuance and duration))—National background checks.** ((1)) Unless there is a basis for denial of a physical therapist or physical therapist assistant license, an applicant who is licensed in another jurisdiction shall be issued a temporary practice permit after receipt of the following documentation by the department of health:

(a) Submission of a completed physical therapist or physical therapist assistant license application on which the applicant indicates that he or she wishes to receive a temporary practice permit;

(b) Payment of the application fee;

(c) Submission of all required supporting documentation as described in the application forms and instructions provided by the department of health, excepting the seven hour AIDS education requirement as described in WAC 246-915-110.

(2) Applicants wishing to receive a temporary practice permit shall be granted an additional ninety days to complete the AIDS education requirement; however, issuance of a physical therapist or physical therapist assistant license is contingent upon evidence of having met this requirement.

(3) The temporary permit shall expire upon the issuance of a license by the board; initiation of an investigation by the board of the applicant; or ninety days, whichever occurs first.

(4) An applicant who receives a temporary practice permit and who does not complete the application process may not receive additional temporary practice permits even upon submission of a new application in the future.) Fingerprint-based background checks may cause a delay in licensing. Individuals who satisfy all other licensing requirements and qualifications may receive a temporary permit while the national background check is completed.

(1) A temporary permit may be issued to an applicant who:

(a) Holds an unrestricted, active license in another state or jurisdiction that has substantially equivalent licensing standards for the same profession as those in Washington;

(b) Is not subject to denial of a license or issuance of a conditional or restricted license; and

(c) Does not have a criminal record in Washington.

(2) A temporary permit grants the individual the full scope of practice for the profession.

(3) A temporary practice permit will not be renewed, reissued, or extended. A temporary practice permit expires when any one of the following occurs:

(a) The license is granted;

(b) A notice of decision on application is mailed to the applicant, unless the notice of decision on application specifically extends the duration of the temporary practice permit; or

(c) One hundred eighty days after the temporary practice permit is issued.

(4) To receive a temporary practice permit, the applicant shall:

(a) Submit the necessary application, fee(s), and documentation for the license;

(b) Meet all requirements and qualifications for the license, except the results from a fingerprint-based national background check, if required;

(c) Provide verification of having an active unrestricted license in the same profession from another state that has substantially equivalent licensing standards for the profession in Washington; and

(d) Submit to the department the fingerprint card and a written request for a temporary practice permit when the department notifies the applicant the national background check is required.

## NEW SECTION

### **WAC 246-915-076 Temporary practice permit—Military spouse.**

A military spouse or state registered domestic partner of a military person may receive a temporary practice permit while completing any specific additional requirements that are not related to training or practice standards for the profession by meeting the procedural requirements found in WAC 246-12-051.

**AMENDATORY SECTION** (Amending WSR 08-17-026, filed 8/13/08, effective 8/13/08)

**WAC 246-915-078 Interim permits.** ((An applicant who has not previously taken the physical therapy examination or an applicant who has not previously held an interim or temporary permit in Washington or another state, may be eligible for an interim permit under RCW 18.74.075 upon submission of the following:

(1) Payment of the application fee;

((2))) (1) The department, upon approval by the board, will issue an interim permit authorizing an applicant for licensure who meets the minimum qualifications stated in RCW 18.74.030 to practice physical therapy under graduate supervision pending notification of the results of the first licensure examination for which the applicant is eligible. The duration of an interim permit must not exceed six months from the date of issuance.

(2) For purposes of this section, "graduate supervision" means supervision of a holder of an interim permit by a licensed physical therapist who is on the premises at all times. Graduate supervision must include consultation regarding evaluation, treatment plan, treatment program, and progress of each assigned patient at appropriate intervals and be documented by cosignature of notes by the licensed physical therapist. RCW 18.74.012 is not applicable for holders of interim permits.

(3) If the holder of the interim permit fails the NPTE, the permit expires upon notification and is not renewable.

(4) To obtain an interim permit, an applicant shall submit the following:

(a) Evidence of having obtained a physical therapy degree from a board approved school as stated in WAC 246-915-100 and 246-915-105;

((3))) (b) A completed ((a)) physical therapist or physical therapist assistant license application ((on which the applicant:

(a) Requests to receive an interim permit;

(b) Provides)); and

(c) The application fee under WAC 246-915-990 or 246-915-99005.

(5) The applicant shall also submit a completed department-approved interim permit sponsor form that provides:

(a) The name, location and telephone number of his or her place of employment;

((e) Provides)) (b) The name and license number of his or her ((licensed)) supervising physical therapist; and

((d) Provides)) (c) Written confirmation from the ((licensed)) supervising physical therapist attesting that he or she will:

((Ensure that a licensed physical therapist will)) Remain on the premises at all times to provide ((("))) graduate supervision(("))) as specified in RCW 18.74.075;

(ii) Report to the board any change in supervision or any change in location where services are provided within ten business days of the change;

(iii) Ensure that the holder of the interim permit wears identification showing his or her clinical title ((and/or)) and role in the facility as a graduate physical therapist or graduate physical therapist assistant; and

(iv) Ensure that the holder of the interim permit ceases practice immediately upon notification of ((examination failure)) failing the NPTE; or

(v) Ensure that the holder of the interim permit obtains his or her physical therapist or physical therapist assistant license immediately upon notification of having passed the ((examination)) NPTE.

**AMENDATORY SECTION** (Amending WSR 15-14-093, filed 6/29/15, effective 7/1/15)

### **WAC 246-915-085 Continuing competency.**

((Licensed physical therapists and physical therapist assistants must provide evidence of continuing competency in the form of continuing education and employment related to physical therapy every two years.

(1) Licensed physical therapists and physical therapist assistants must complete 40 hours of continuing education every two years.

(2) Physical therapists and physical therapist assistants are required to complete a one-time training in suicide assessment that includes screening and referral elements appropriate for this profession. The training must be at least three hours in length and must meet the requirements for training per WAC 246-915-086.

A physical therapist or physical therapist assistant must complete a one-time training by the end of the first full continued competency reporting period after January 1, 2016, or during the first full continued competency reporting period

after initial licensure, whichever is later. Training completed between June 12, 2014, and January 1, 2016, that meets the requirements of this section will be accepted as meeting the one time training requirements.

(3) Acceptable continuing education specifically relating to the practice of physical therapy includes, but is not limited to, the following:

(a) Participation in a course with specific goals and objectives relating to the practice of physical therapy;

(b) Audio or video recordings or other multimedia devices, and/or book/article review. A maximum of ten hours may be used for books/articles reviewed;

(c) Correspondence course work completed.

(4) A physical therapist with a spinal manipulation endorsement must complete at least ten hours of continuing education per continuing competency reporting period directly related to spinal manipulation. At least five hours of the training must be related to procedural technique and application of spinal manipulation.

(5) In addition to the required continuing education hours, physical therapists and physical therapist assistants must complete 200 hours involving the application of physical therapy knowledge and skills, which may be obtained as follows:

(a) In the clinical practice of physical therapy; or

(b) In nonclinical activities that involve the direct application of physical therapy skills and knowledge, examples of which include, but are not limited to:

(i) Active service on boards or in physical therapy school or education program accrediting bodies;

(ii) Physical therapy teaching or presentations on:

(A) Patient/client management, prevention and wellness;  
(B) Physical therapy ethics and standards of practice;  
(C) Professional advocacy/involvement;

(iii) Developing course work in physical therapy schools or education programs or physical therapy continuing education courses;

(iv) Physical therapy research as a principal or associate researcher; and

(v) Physical therapy consulting.

(6) Licensed physical therapists and physical therapist assistants shall maintain records of all activities relating to continuing education and professional experience for a period of four years. Acceptable documentation shall mean:

(a) Continuing education. Certificates of completion, course sponsors, goals and objectives of the course, credentials of the presenter as a recognized authority on the subject presented, dates of attendance and total hours, for all continuing education being reported.

(b) Audio or video recordings or other multimedia devices, and/or book/article review. A two page synopsis of each item reviewed must be written by the licensee.

(i) For audio or video recordings or other multimedia devices, a two page double spaced synopsis for every one to four hours of running time must be written by the licensee. Time spent writing a synopsis is not reportable.

(ii) For book/article review, a two page double spaced synopsis on each subject reviewed must be written by the licensee. Time spent writing a synopsis is not reportable.

(c) Correspondence course work completed. Course description and/or syllabus and copies of the completed and scored examination must be kept on file by the licensee.

(d) Physical therapy employment. Certified copies of employment records or proof acceptable to the board of physical therapy employment for the hours being reported.) (1) Every two years, a physical therapist shall complete thirty-two hours of continuing education (CE) through any of the following means:

	<u>CE Type</u>	<u>Maximum Hours Allowed</u>	<u>Documentation Requirements</u>
a.	Participation in a course, live or online.	No limit	Keep certificates of completion for each course, and, if not contained in the certificate of completion, information describing the course sponsors, the goals and objectives of the course, the credentials of the presenter as a recognized authority on the subject presented, dates of attendance, and total hours for all continuing education courses being reported.
b.	Live or recorded instructional electronic media that does not include specific goals and objectives relating to the practice of physical therapy.	Four hours	Instead of course goals, objectives and certificate of completion, the PT shall write and submit to the department a one-page synopsis in twelve-point font for each hour of running time.
c.	Books or articles reviewed.	Eight hours (reading time only)	The PT shall write and submit to the department a one-page synopsis in twelve-point font for each hour of reading time. The time spent writing a synopsis is not reportable.
d.	Preparation and presentation of professional physical therapy courses or lectures.	Ten hours	The PT shall submit to the department an outline of presentation materials, date, and location of presentation.
e.	Written publication of original scholarly research or work published in a peer-review journal.	Ten hours	The PT shall submit to the department proof of publication which may include poster presentations.
f.	Clinical instruction of physical therapist students enrolled in a physical therapy pro	Ten hours	The PT shall obtain and submit to the department a letter or certificate from the

	<u>CE Type</u>	<u>Maximum Hours Allowed</u>	<u>Documentation Requirements</u>
	<u>gram accredited by the American Physical Therapy Association's Commission on Accreditation in Physical Therapy Education (CAPTE) or clinical instruction in a postgraduate residency or fellowship through the American Board of Physical Therapy Residency and Fellowship Education (ABPTRFE).</u>		<u>student's academic institution verifying that the student has completed the course of clinical instruction. Each thirty-two hours of student mentorship equals one hour for purposes of CE credit.</u>
g.	<u>Completion of Option, which is a self-assessment tool created by the Federation of State Boards of Physical Therapy.</u>	<u>Five hours</u>	<u>The PT shall submit a copy of the completion certificate to the department.</u>
h.	<u>Courses provided by an accredited institution of higher education which may include, but are not limited to, courses leading to an advanced degree in physical therapy or other courses that advance the PT's competence.</u>	<u>No limit</u>	<u>The PT shall submit a transcript to the department verifying courses taken. One quarter credit is equal to ten hours; one trimester is equal to twelve hours; and one semester credit is equal to fifteen hours.</u>
i.	<u>Participation in the use of the Federation of State Boards of Physical Therapy's aptitude continuing competence resource.</u>	<u>Two hours</u>	<u>The PT shall submit verification of completion by FSBPT.</u>

(2) Every two years a physical therapist who holds a spinal manipulation endorsement shall complete at least ten hours of continuing education directly related to spinal manipulation with at least five hours related to procedural techniques and application of spinal manipulation. For documentation, refer to the documentation required for the particular type of continuing education chosen. The hours spent completing spinal manipulation continuing education count toward meeting any applicable continuing competency requirements.

(3) Every two years, a physical therapist assistant shall complete twenty-four hours of continuing education through any of the following means:

	<u>CE Type</u>	<u>Hours Allowed</u>	<u>Documentation Requirements</u>
a.	<u>Participation in a course, live or online.</u>	<u>No limit</u>	<u>Keep certificates of completion for each course, and, if not contained in the certificate of completion, information describing the course spon</u>

	<u>CE Type</u>	<u>Hours Allowed</u>	<u>Documentation Requirements</u>
			<u>sors, the goals and objectives of the course, the credentials of the presenter as a recognized authority on the subject presented, dates of attendance, and total hours for all continuing education courses being reported.</u>
b.	<u>Live or recorded instructional electronic media that does not include specific goals and objectives relating to the practice of physical therapy.</u>	<u>Four hours</u>	<u>Instead of course goals, objectives and certificate of completion, the PTA shall write and submit a one-page synopsis in twelve-point font for each hour of running time.</u>
c.	<u>Books or articles reviewed.</u>	<u>Eight hours (reading time only)</u>	<u>The PTA shall write and submit a one-page synopsis in twelve-point font for each hour of reading time. The time spent writing a synopsis is not reportable.</u>
d.	<u>Preparation and presentation of professional physical therapy courses or lectures.</u>	<u>Ten hours</u>	<u>The PTA shall submit an outline of presentation materials, date, and location of presentation.</u>
e.	<u>Written publication of original scholarly research or work published in a peer-reviewed journal.</u>	<u>Ten hours</u>	<u>The PTA shall submit proof of publication which may include poster presentations.</u>
f.	<u>Clinical instruction of physical therapist assistant students enrolled in a physical therapy assistant program accredited by the American Physical Therapy Association's Commission on Accreditation in Physical Therapy Education (CAPTE) or clinical instruction in a postgraduate residency or fellowship through the American Board of Physical Therapy Residency and Fellowship Education (ABPTRFE).</u>	<u>Ten hours</u>	<u>The PTA shall obtain and submit a letter or certificate from the student's academic institution verifying that the student has completed the course of clinical instruction. For each thirty-two hours of student mentorship equaling one hour for purposes of CE credit.</u>

	<u>CE Type</u>	<u>Hours Allowed</u>	<u>Documentation Requirements</u>
g.	Completion of Option, which is a self-assessment tool created by the Federation of State Boards of Physical Therapy.	Five hours	The PTA shall submit a copy of the completion certificate.
h.	Courses provided by an accredited institution of higher education which may include, but are not limited to, courses leading to an advanced degree in physical therapy or other courses that advance the PTA's competence.	No limit	The PTA shall submit a transcript verifying courses taken. One quarter credit is equal to ten hours; one trimester credit is equal to twelve hours; and one semester credit is equal to fifteen hours.
i.	Participation in the use of the Federation of State Boards of Physical Therapy's aptitude continuing competence resource.	Two hours	The PTA shall submit verification of completion by FSBPT.

(4) Each physical therapist and physical therapist assistant shall complete a one-time, three hour suicide assessment training described in WAC 246-915-086.

(5) Every two years, each physical therapist and physical therapist assistant shall complete two hundred hours involving the application of physical therapy knowledge and skills which may be obtained in the clinical practice of physical therapy or in the nonclinical activities which include, but are not limited to, the following:

	<u>Clinical Activities</u>	<u>Hours Allowed</u>	<u>Documentation</u>
a.	Physical therapy clinical practice.	No limit	Documentation of physical therapy employment, the PT or PTA shall provide copies of employment records or other proof acceptable to the board of employment for the hours being reported.

	<u>Nonclinical Activities</u>	<u>Hours Allowed (within the two hundred hours required)</u>	<u>Documentation</u>
b.	Physical therapy teaching of: • Patient/client management, prevention and wellness. • Physical therapy ethics and standards of practice. • Professional advocacy/involvement.	No limit	The PT or PTA shall provide documentation of such activities as acceptable to the board.

	<u>Nonclinical Activities</u>	<u>Hours Allowed (within the two hundred hours required)</u>	<u>Documentation</u>
c.	Active service on boards or participation in professional or government organizations specifically related to the practice of physical therapy.	No limit	The PT or PTA shall provide documentation of such activities as acceptable to the board.
d.	Developing course work in physical therapy schools or education programs or physical therapy continuing education courses.	No limit	The PT or PTA shall provide documentation of such activities as acceptable to the board.
e.	Physical therapy research as a principal or associate researcher.	No limit	The PT or PTA shall provide documentation of such activities as acceptable to the board.
f.	Physical therapy consulting.	No limit	The PT or PTA shall provide documentation of such activities as acceptable to the board.
g.	Management of physical therapy services.	No limit	The PT or PTA shall provide documentation of such activities as acceptable to the board.

#### AMENDATORY SECTION (Amending WSR 15-14-093, filed 6/29/15, effective 7/1/15)

#### WAC 246-915-086 Suicide assessment training standards.

- (1) A qualifying training in suicide assessment must:
- Be an empirically supported training in suicide assessment that includes screening and referral;
  - Be provided by a single provider and must be at least three hours in length which may be provided in one or more sessions;
  - Beginning July 1, 2017, be taken from a provider listed on the department's suicide prevention training model list.

(2) The hours spent completing a training program in suicide assessment under this section count toward meeting any applicable continued competency requirements.

#### AMENDATORY SECTION (Amending WSR 05-06-020, filed 2/22/05, effective 3/25/05)

#### WAC 246-915-100 Approved physical ((therapy)) therapist schools.

The board adopts the standards of the ((American Physical Therapy Association's Commission on Accreditation in Physical Therapy Education)) CAPTE for the approval of physical therapy schools. Individuals who have a baccalaureate degree in physical therapy or who have a baccalaureate degree and a certificate or advanced degree from an institution of higher learning accredited by the ((American Physical Therapy Association's Commission on

~~Accreditation in Physical Therapy Education)) CAPTE or a United States military physical therapy technician program that is substantially equivalent to an accredited United States physical therapist program accredited by the CAPTE will be considered qualified for licensure under RCW 18.74.030 ((2)).~~

**AMENDATORY SECTION** (Amending WSR 05-06-021, filed 2/22/05, effective 3/25/05)

**WAC 246-915-105 Approved physical therapist assistant schools.** A board approved physical therapist assistant program shall mean a United States physical therapist assistant education program accredited by the ((American Physical Therapy Association's Commission on Accreditation in Physical Therapy Education)) CAPTE or a United States military physical therapy technician program that is substantially equivalent to an accredited United States physical therapist assistant program. This program must be accredited by the CAPTE.

**AMENDATORY SECTION** (Amending WSR 08-17-026, filed 8/13/08, effective 8/13/08)

**WAC 246-915-120 ((Physical therapist applicants from unapproved schools.)) Foreign educated applicants.** ((1) Applicants who have not graduated from a physical therapy program approved by the board must:

(a) Have a bachelor's degree in physical therapy with all credits earned at an institution of higher learning that confers at least a bachelor's degree in physical therapy which is approved by the country's Ministry of Education/Health, or government entity;

(b) Have a valid, unencumbered license or authorization to practice physical therapy in the country in which the physical therapy education was obtained;

(c) Have graduated from a program of physical therapy education with requirements substantially equal to those required of graduates of board approved programs;

(d) Submit an application for review by the board;

(e) Submit official transcripts from the physical therapy program showing degree date; and

(f) Submit transcripts, fees, and other documentation to a credentialing service approved by the board and request the evaluation report be sent directly to the board.

(2) In addition to the other requirements of this rule, the applicant must demonstrate a working knowledge of English by obtaining:

(a) Scores of at least:

(i) 4.5 on the test of written English (TWE);  
 (ii) 50 on the test of spoken English (TSE); and  
 (iii) 220 on the computer based test of English as a foreign language (TOEFL) or 560 on the paper based TOEFL; or

(b) Scores on the test of English as a foreign language (TOEFL) internet based test (IBT) of at least:

(i) 24 on the writing section;  
 (ii) 26 on the speaking section;  
 (iii) 21 on the reading section;  
 (iv) 18 on the listening comprehension section; and  
 (v) 89 on the overall examination.

(3) The board may request additional supporting documentation as necessary.

(4) The degree's total credits must be at least one hundred twenty three. A semester credit is equal to fifteen hours of classroom instruction per semester. For courses with a laboratory component, a semester credit is also equal to thirty hours of laboratory instruction per semester. (A semester credit equals 0.67 quarter credits.)

The applicant may meet the objective of one hundred twenty three semester credits requirement by using additional elective credits in either general or professional education beyond the minimal requirements.

(5) Substantially equal physical therapy education as used in subsection (1)(e) of this section, shall include a total of one hundred twenty three semester credits or equivalent credits of college education including:

General education - at least fifty four semester credits:

(a) Humanities - nine semester credits which may include English, speech, foreign language, literature, music/art, philosophy and other humanities courses;

(b) Social sciences - ten semester credits which may include history, social sciences, philosophy, civilization, psychology, sociology, economics and other social science courses;

(c) Biological, natural, and physical science - eight semester credits which may include chemistry, mathematics, physics, biology, zoology, anatomy, kinesiology, physiology and other biological and natural science courses. In addition, the applicant must have one semester (five semester credits) of chemistry with laboratory and one semester (four semester credits) of physics with laboratory.

(6) Professional education. An applicant who has graduated from an unapproved school must complete at least sixty-nine semester credits in the following topics:

(a) Basic health sciences. At least one semester (at least four semester credits) in each of the following topics:

- (i) Human anatomy (specific to physical therapy);
- (ii) Human physiology (specific to physical therapy);
- (iii) Neurological science;
- (iv) Kinesiology or functional anatomy;
- (v) Abnormal or developmental psychology; and
- (vi) Pathology.

(b) Clinical sciences. The essential element of physical therapy education is teaching the student to assess and treat appropriately across the spectrum of age. Therefore, any educational course work should contain all of the following:

(i) Clinical medicine pertinent to physical therapy. Including, but not be limited to:

- (A) Neurology;
- (B) Orthopedics;
- (C) Pediatrics;
- (D) Geriatrics.

(ii) Physical therapy course work including, but not limited to:

- (A) Physical agents;
- (B) Musculoskeletal assessment and treatment;
- (C) Neuromuscular assessment and treatment;
- (D) Cardiopulmonary assessment and treatment;
- (E) Wound debridement/wound care;
- (F) Pharmacology.

(e) Clinical education. Clinical education must include demonstrated application of physical therapy theories, techniques, and procedures, as supervised by a physical therapist. The applicant must have at least two clinical affiliations of no less than eight hundred hours total.

(d) Related professional course work. The applicant must complete three semester courses in the following topics:

- (i) Professional ethics;
- (ii) Administration;
- (iii) Community health;
- (iv) Research;
- (v) Educational techniques; and
- (vi) Medical terminology.

(7) Applicants must have received a grade of "C" or higher in all professional education course work.

(8) The applicant may apply for the College Level Education Program (CLEP) and their scores may be applied toward college credit. The board will consider the conversion of CLEP scores to college credits provided by a board-approved credentialing agency.

(9) The board may allow applicants who have not graduated from a physical therapy program approved by the board to correct deficiencies by completing board-approved course work. To obtain course work preapproval, the applicant must submit a written request along with the course description/syllabus for the proposed course.) (1) An applicant whose first professional degree in physical therapy was awarded from a foreign physical therapy program that is not or was not accredited by the CAPTE shall submit:

(a) An application for review by the board;

(b) A credentials evaluation report of professional education and training prepared by a board-approved credentials evaluation agency. The report must be sent directly from the credentialing agency to the board. It is the responsibility of the applicant to pay the expenses associated with the credentials evaluation:

(i) The report must provide evidence and documentation that the applicant completed education outside a state or territory of the United States that is substantially equivalent to the education of a physical therapist who graduated from a physical therapy education program accredited by CAPTE.

(ii) To be approved as a credentialing agency, the agency must use the appropriate course work tool (CWT) adopted by the Federation of State Boards of Physical Therapy to determine substantial equivalency. The appropriate CWT means the CWT in place at the time the foreign educated physical therapist earned their first professional degree in physical therapy.

(c) Evidence of English language proficiency:

(i) Verification that English is the native language of the country of origin, and the physical therapy program employs English as the language of training; or

(ii) Verification that the applicant has achieved a score of not less than five hundred sixty on the paper Test of English as a Foreign Language (TOEFL) or a score of not less than two hundred twenty on the computer Test of English as a Foreign Language (TOEFL), a score of not less than fifty on the Test of Spoken English (TSE) and a score of not less than four and one-half on the Test of Written English (TWE); or

(iii) Verification that the applicant has achieved the following minimum scores for each category of the internet-based TOEFL (ibTOEFL) examination: Writing, twenty-four; speaking, twenty-six; reading, twenty-one; listening, eighteen; with an overall score of not less than eighty-nine. These passing scores must all be earned during the same test sitting.

(d) Verification of a valid, unencumbered license or authorization to practice physical therapy in the country in which the physical therapy education was obtained;

(e) Official transcripts from the physical therapy program showing degree date;

(f) Passing scores for the Washington jurisprudence examination;

(g) Passing scores for the National Physical Therapy Examination (NPTE); and

(h) Any additional supporting documentation as requested by the board.

(2) The applicant shall have received a grade of "C" or higher (or equivalent) in all professional education course work;

(3) The applicant may apply for the college-level education program (CLEP) and their scores may be applied toward college credit. The board will consider the conversion of CLEP scores to college credits provided by a board-approved credentialing agency;

(4) The board may allow applicants to correct general education deficiencies by completing board-approved course work. To obtain professional course work preapproval, the applicant shall submit a written request along with the course description/syllabus for the proposed course; and

(5) An applicant whose first professional degree in physical therapy was awarded from a foreign physical therapy program that is or was accredited by the CAPTE shall follow the requirements under WAC 246-915-030 and 246-915-100.

#### AMENDATORY SECTION (Amending WSR 91-05-094, filed 2/20/91, effective 3/23/91)

**WAC 246-915-130 Initial evaluation—Referral((—Nonreferral))—Recommendations—Follow-up.** (1) Initial evaluation of a patient shall include history, patient's chief complaint, examination, and recommendation for treatment.

((2)) (a) Direct referral of a patient by an authorized health care practitioner may be by telephone, letter, email, fax, or in person((+Provided, however,));

(b) If the instructions are oral, the physical therapist may administer treatment accordingly, but ((must)) shall make a notation ((for his/her)) in the patient record describing the nature of the treatment, the date administered, the name of the ((person)) patient receiving treatment, and the name of the referring authorized health care practitioner.

((3)) (2) The physical therapist will follow-up each patient visit with the appropriate recordkeeping as defined in WAC 246-915-200.

(3) For patient reevaluations the licensed physical therapist shall at a minimum visually see the patient.

**AMENDATORY SECTION** (Amending WSR 04-13-052, filed 6/11/04, effective 7/12/04)

**WAC 246-915-140 Personnel identification.** (1) Each person shall wear identification showing his or her clinical title, ((and/or)) and their role in the facility as a physical therapist, a physical therapist assistant, a physical therapy aide, ((or)) a graduate physical therapist, or a graduate physical therapist assistant as appropriate. Trained supportive personnel may not use any term or designation which indicates or implies that he or she is licensed as a physical therapist or physical therapist assistant in the state of Washington.

(2) The ((licensee must)) physical therapist or physical therapist assistant shall post the license or interim permit, or a ((certified)) copy of the license or interim permit, or a print-out from the department's provider credential search web site, in a safe, conspicuous location at the ((licensee's)) physical therapist's or physical therapist assistant's work site. The ((licensee)) physical therapist or physical therapist assistant may block out his or her address before posting the license or interim permit.

If the physical therapist or physical therapist assistant does not have a principal place of business or conducts business in any other location, he or she shall have a copy of his or her license available for inspection while performing services within his or her authorized scope of practice.

**NEW SECTION**

**WAC 246-915-181 Supervision responsibilities.** A physical therapist is professionally and legally responsible for patient care given by assistive personnel under his or her supervision. If a physical therapist fails to adequately supervise patient care given by assistive personnel, the board may take disciplinary action against the physical therapist.

(1) Regardless of the setting in which physical therapy services are provided, only the licensed physical therapist may perform the following responsibilities:

(a) Interpretation of referrals;

(b) Initial examination, problem identification, and diagnosis for physical therapy;

(c) Development or modification of a plan of care that is based on the initial examination and includes the goals for physical therapy intervention;

(d) Determination of which tasks require the expertise and decision-making capacity of the physical therapist and shall be personally rendered by the physical therapist, and which tasks may be delegated;

(e) Assurance of the qualifications of all assistive personnel to perform assigned tasks through written documentation of their education or training that is maintained and available at all times;

(f) Delegation and instruction of the services to be rendered by the physical therapist, physical therapist assistant, or physical therapy aide including, but not limited to, specific tasks or procedures, precautions, special problems, and contraindicated procedures;

(g) Timely review of documentation, reexamination of the patient, and revision of the plan of care when indicated;

(h) Establishment of a discharge plan.

(2) Supervision requires that the patient reevaluation is performed:

(a) Every fifth visit, or if treatment is performed more than five times per week, reevaluation must be performed at least once a week;

(b) When there is any change in the patient's condition not consistent with planned progress or treatment goals.

(3) Patient reexamination means the licensed physical therapist shall physically observe and interview the patient and reexamine the patient as necessary during an episode of care to evaluate progress or change in patient status and modify the plan of care accordingly or discontinue physical therapy services.

(4) For patient reevaluations the licensed physical therapist shall at a minimum visually see the patient.

(5) Supervision of assistive personnel means:

(a) Physical therapist assistants may function under direct or indirect supervision;

(b) Physical therapy aides shall function under direct supervision;

(c) The physical therapist may supervise a total of two assistive personnel at any one time;

(d) In addition to the two assistive personnel authorized in (c) of this subsection, the physical therapist may supervise a total of two persons who are pursuing a course of study leading to a degree as a physical therapist or a physical therapist assistant.

**AMENDATORY SECTION** (Amending WSR 08-17-026, filed 8/13/08, effective 8/13/08)

**WAC 246-915-182 Unprofessional conduct—Sexual misconduct.** (((1) The physical therapist and physical therapist assistant shall never engage in sexual contact or sexual activity with current clients.

(2) Sexual contact or sexual activity is prohibited with a former client for two years after cessation or termination of professional services.

(3) The physical therapist and physical therapist assistant shall never engage in sexual contact or sexual activity with former clients if such contact or activity involves the abuse of the physical therapist-client relationship. Factors which the board may consider in evaluating if the physical therapist or physical therapist assistant-client relationship has been abusive includes, but is not limited to:

(a) The amount of time that has passed since therapy terminated;

(b) The nature and duration of the therapy;

(c) The circumstances of cessation or termination;

(d) The former client's personal history;

(e) The former client's current mental status;

(f) The likelihood of adverse impact on the former client and others; and

(g) Any statements or actions made by the physical therapist or physical therapist assistant during the course of therapy suggesting or inviting the possibility of a post termination sexual or romantic relationship with the former client.

(4) The physical therapist and physical therapist assistant shall never engage in sexually harassing or demeaning behavior with current or former clients.

(5) These rules do not prohibit:

(a) The provision of physical therapy services on an urgent, unforeseen basis where circumstances will not allow a physical therapist or physical therapist assistant to obtain reassignment or make an appropriate referral;

(b) The provision of physical therapy services to a spouse, or family member, or any other person who is in a preexisting, established relationship with the physical therapist or physical therapist assistant where no evidence of abuse of the physical therapist or physical therapist assistant-client relationship exists.) (1) A physical therapist or a physical therapist assistant shall not engage, or attempt to engage, in sexual misconduct with a current patient, client, or key party, as defined in WAC 246-16-020, inside or outside the health care setting. Sexual misconduct shall constitute grounds for disciplinary action. Sexual misconduct includes, but is not limited to:

(a) Sexual intercourse;

(b) Touching the breasts, genitals, anus or any sexualized body part except as consistent with accepted community standards of practice for examination, diagnosis and treatment and within the health care practitioner's scope of practice;

(c) Rubbing against a patient or client or key party for sexual gratification;

(d) Kissing;

(e) Hugging, touching, fondling or caressing of a romantic or sexual nature;

(f) Examination of or touching genitals without using gloves;

(g) Not allowing a patient or client privacy to dress or undress except as may be necessary in emergencies or custodial situations;

(h) Not providing the patient or client a gown or draping except as may be necessary in emergencies;

(i) Dressing or undressing in the presence of the patient, client or key party;

(j) Removing patient or client's clothing or gown or draping without consent, emergent medical necessity, or being in a custodial setting;

(k) Encouraging masturbation or other sex act in the presence of the health care provider;

(l) Masturbation or other sex act by the physical therapist or physical therapist assistant in the presence of the patient, client or key party;

(m) Suggesting or discussing the possibility of a dating, sexual, or romantic relationship after the professional relationship ends;

(n) Terminating a professional relationship for the purpose of dating or pursuing a romantic or sexual relationship;

(o) Soliciting a date with a patient, client, or key party;

(p) Discussing the sexual history, preferences or fantasies of the physical therapist or physical therapist assistant;

(q) Any behavior, gestures, or expressions that may reasonably be interpreted as seductive or sexual;

(r) Making statements regarding the patient, client, or key party's body, appearance, sexual history, or sexual orientation other than for legitimate health care purposes;

(s) Sexually demeaning behavior including any verbal or physical contact which may reasonably be interpreted as

demeaning, humiliating, embarrassing, threatening or harming a patient, client, or key party;

(t) Photographing or filming the body or any body part or pose of a patient, client, or key party, other than for legitimate health care purposes; and

(u) Showing a patient, client, or key party sexually explicit photographs, other than for legitimate health care purposes.

(2) Sexual misconduct also includes sexual contact with any person involving force, intimidation, or lack of consent, or a conviction of a sex offense as defined in RCW 9.94A.-030.

(3) A physical therapist or physical therapist assistant shall not:

(a) Offer to provide health care services in exchange for sexual favors;

(b) Use health care information to contact the patient, client, or key party for the purpose of engaging in sexual misconduct;

(c) Use health care information or access to health care information to meet or attempt to meet the physical therapist's or physical therapist assistant's sexual needs.

(4) A physical therapist or physical therapist assistant shall not engage, or attempt to engage, in the activities listed in subsection (1) of this section with a former patient, client or key party within two years after the provider-patient/client relationship ends.

(5) After the two-year period of time described in subsection (4) of this section, a physical therapist or physical therapist assistant shall not engage, or attempt to engage, in the activities listed in subsection (1) of this section if:

(a) There is a significant likelihood that the patient, client or key party will seek or require additional services from the physical therapist or physical therapist assistant; or

(b) There is an imbalance of power, influence, opportunity, or special knowledge of the professional relationship.

(6) When evaluating whether a physical therapist or physical therapist assistant is prohibited from engaging, or attempting to engage, in sexual misconduct, the board will consider factors including, but not limited to:

(a) Documentation of a formal termination and the circumstances of termination of the provider-patient relationship;

(b) Transfer of care to another health care provider;

(c) Duration of the provider-patient relationship;

(d) Amount of time that has passed since the last health care services to the patient;

(e) Communication between the physical therapist or physical therapist assistant and the patient or client between the last health care services rendered and commencement of the personal relationship;

(f) Extent to which the patient's personal or private information was shared with the physical therapist or physical therapist assistant;

(g) Nature of the patient's or client's health condition during and since the professional relationship;

(h) The patient's or client's emotional dependence and vulnerability; and

(i) Normal revisit cycle for the profession and service.

(7) Patient, client, or key party initiation or consent does not excuse or negate the physical therapist's or physical therapist assistant's responsibility.

(8) These rules do not prohibit:

(a) Providing health care services in case of emergency where the services cannot or will not be provided by another health care provider;

(b) Contact that is necessary for a legitimate health care purpose and that meets the standard of care appropriate to that profession; or

(c) Providing health care services for a legitimate health care purpose to a person who is in a preexisting, established personal relationship with the physical therapist or physical therapist assistant where there is no evidence of, or potential for, exploiting the patient or client.

**AMENDATORY SECTION** (Amending WSR 11-05-026, filed 2/7/11, effective 3/10/11)

**WAC 246-915-187 Use of telehealth in the practice of physical therapy.** (1) Licensed physical therapists and physical therapist assistants may provide physical therapy via telehealth following all requirements for standard of care, including those defined in chapter((s)) 18.74 RCW and ((246-915 WAC)) this chapter.

(2) The physical therapist or physical therapist assistant ((must)) shall identify in the clinical record that the physical therapy occurred via telehealth.

(3) ((The definitions in this subsection apply throughout this section unless the context clearly requires otherwise:)) For the purposes of this section:

(a) "Telehealth" means providing physical therapy via electronic communication where the physical therapist or physical therapist assistant and the patient are not at the same physical location.

(b) "Electronic communication" means the use of interactive, secure multimedia equipment that includes, at a minimum, audio and video equipment permitting two-way, real time interactive communication between the physical therapist or the physical therapist assistant and the patient.

**AMENDATORY SECTION** (Amending WSR 08-17-026, filed 8/13/08, effective 8/13/08)

**WAC 246-915-190 Division of fees—Rebating—Financial interest—Endorsement.** (((1) Physical therapists and physical therapist assistants are not to directly or indirectly request, receive or participate in the dividing, transferring, assigning, rebating or refunding of an unearned fee, or to profit by means of a credit or other valuable consideration such as an unearned commission, discount, or gratuity in connection with the furnishing of physical therapy services.

(2) Physical therapists and physical therapist assistants who practice physical therapy as partners or in other business entities may pool fees and moneys received, either by the partnership or other entity, for the professional services furnished by any physical therapist or physical therapist assistant member or employee of the partnership or entity. Physical therapists and physical therapist assistants may divide or apportion the fees and moneys received by them, in the part-

nership or other business entity, in accordance with the partnership or other agreement.

(3) There shall be no rebate to any health care practitioner who refers or authorizes physical therapy treatment or evaluation as prohibited by chapter 19.68 RCW.

(4) Physical therapists and physical therapist assistants are not to influence patients to rent or purchase any items which are not necessary for the patient's care.)) A physical therapist or physical therapist assistant shall comply with chapter 19.68 RCW.

**AMENDATORY SECTION** (Amending WSR 92-08-039, filed 3/24/92, effective 4/24/92)

**WAC 246-915-200 Physical therapy records.** In order to maintain the integrity of physical therapy practice, the physical therapist is responsible for obtaining all necessary information, such as medical history, contraindications, or((s)) any special instructions from an authorized health care practitioner. The evaluation and treatment plan ((shall)) must be written according to acceptable physical therapy practice consistent with the delegated health care task. Records must be maintained and include date of treatment, treatment record, and signature of person responsible for the treatment.

**AMENDATORY SECTION** (Amending WSR 04-08-100, filed 4/6/04, effective 5/7/04)

**WAC 246-915-210 Mandatory reporting—General provisions.** (((1) The following definitions apply to the requirements for mandatory reporting set out in WAC 246-915-220 through 246-915-280:

(a) "Unprofessional conduct" as used in these regulations shall mean the conduct described in RCW 18.130.180.

(b) "Hospital" means any health care institution licensed pursuant to chapter 70.41 RCW.

(c) "Nursing home" means any health care institution which comes under chapter 18.51 RCW.

(d) "Home health agency" means a person administering or providing two or more home health services directly or through a contract arrangement to individuals in places of temporary or permanent residence. A person administering or providing nursing services only may elect to be designated a home health agency for purposes of licensure.

(e) "Board" means the physical therapy board, whose address is:

Department of Health  
P.O. Box 47868  
Olympia, WA 98504-7868

(f) "Physical therapist" means a person licensed pursuant to chapter 18.74 RCW.

(g) "Mentally or physically disabled physical therapist" means a physical therapist who has either been determined by a court to be mentally incompetent or mentally ill or who is unable to practice physical therapy with reasonable skill and safety to patients by reason of any mental or physical condition.

(2) All reports required by WAC 246-915-220 through 246-915-280 shall be submitted to the board as soon as possi-

~~ble. A report shall contain the following information if known:~~

- (a) The name, address and telephone number of the person making the report.
- (b) The name and address and telephone numbers of the physical therapist being reported.
- (c) The case number of any patient whose treatment is a subject of the report.
- (d) A brief description or summary of the facts which gave rise to the issuance of the report, including dates of occurrences.
- (e) If court action is involved, the name of the court in which the action is filed along with the date of filing and docket number.
- (f) Any further information which would aid the evaluation of the report.) The board adopts the model rules for mandatory reporting as contained in chapter 246-16 WAC.

AMENDATORY SECTION (Amending WSR 08-17-026, filed 8/13/08, effective 8/13/08)

**WAC 246-915-300 Philosophy governing voluntary substance abuse monitoring programs.** The board recognizes the need to establish a means of proactively providing early recognition and treatment options for physical therapists and physical therapist assistants whose competency may be impaired due to the abuse of drugs or alcohol. The board intends that such physical therapists and physical therapist assistants be treated and their treatment monitored so that they can return to or continue to practice their profession in a way which safeguards the public. To accomplish this the board shall approve voluntary substance abuse monitoring programs ((and shall)). The Washington recovery and monitoring program (WRAMP) is the board's approved substance abuse monitoring program under RCW 18.130.175. The board may refer physical therapists and physical therapist assistants impaired by substance abuse to ((approved programs)) WRAMP as an alternative to instituting, or in connection with, disciplinary proceedings as defined in RCW 18.130.160.

AMENDATORY SECTION (Amending WSR 08-17-026, filed 8/13/08, effective 8/13/08)

**WAC 246-915-310 Terms used in WAC 246-915-300 through 246-915-330.** (1) (("Approved substance abuse monitoring program" or "approved monitoring program" is a program the board has determined meets the requirements of the law and the criteria established by the board in WAC 246-915-320 which enters into a contract with physical therapists or physical therapist assistants who have substance abuse problems regarding the required components of the physical therapist's or physical therapist assistant's recovery activity and oversees the physical therapist's or physical therapist assistant's compliance with these requirements. Substance abuse monitoring programs do not provide evaluation or treatment to participating physical therapists or physical therapist assistants.

((2))) "Monitoring contract" is a comprehensive, structured agreement between the recovering physical therapist or physical therapist assistant and ((the approved monitoring

program stipulating the physical therapist's or physical therapist assistant's consent to comply with the monitoring program and its required components of the physical therapist's or physical therapist assistant's recovery activity.

((3))) WRAMP defining the requirements of the physical therapist or physical therapist assistant program participation.

(2) "Approved treatment facility" is a facility ((approved by the bureau of alcohol and substance abuse, department of social and health services according to RCW 70.96A.020(2) or 69.54.030 to provide intensive alcoholism or drug treatment if located within Washington state. Drug and alcohol treatment programs located out of state must be equivalent to the standards required for approval under RCW 70.96A.020 (2) or 69.54.030.

((4))) certified by the division of behavioral health and recovery (DBHR), department of social and health services, according to chapters 388-877 through 388-877B WAC that meets the defined standards. Drug and alcohol treatment facilities located out-of-state must have substantially equivalent standards.

(3) "Substance abuse" or "substance use disorder" means ((the impairment, as determined by the board, of a physical therapist's or physical therapist assistant's professional services by an addiction to, a dependency on, or the use of alcohol, legend drugs, or controlled substances.

((5))) a chronic progressive illness that involves the use of alcohol or other drugs to a degree that it interferes with the functional life of the PT or PTA, as manifested by health, family, job (professional services), legal, financial, or emotional problems.

(4) "Aftercare" ((is that)) means a period of time after intensive treatment that provides the physical therapist or physical therapist assistant and the physical therapist's or physical therapist assistant's family with group or individual counseling sessions, discussions with other families, ongoing contact and participation in self-help groups and ongoing continued support of treatment program staff.

((6))) (5) "Support group" is a group of health care professionals meeting regularly to support the recovery of its members. The group provides a confidential setting with a trained and experienced health care professional facilitator in which physical therapists or physical therapist assistants may safely discuss drug diversion, licensure issues, return to work and other professional issues related to recovery.

((7))) (6) "Recovery-oriented group((s))" ((are)) means a group((s)) such as alcoholics anonymous, narcotics anonymous, and related organizations based on a philosophy of anonymity, belief in a power outside of oneself, a peer group association, and self-help.

((8))) (7) "Random drug screens" are laboratory tests to detect the presence of drugs of abuse in body fluids and other biologic specimens, which are performed at irregular intervals not known in advance by the person being tested.

((9))) (8) "Health care professional" is an individual who is licensed, certified or registered in Washington to engage in the delivery of health care to patients.

(9) "WRAMP" is the approved substance abuse monitoring program as described in RCW 18.130.175 that meets criteria established by the board. WRAMP does not provide evaluation or treatment services.

**AMENDATORY SECTION** (Amending WSR 08-17-026, filed 8/13/08, effective 8/13/08)

**WAC 246-915-320 Approval of substance abuse monitoring programs.** ((The board will approve the)) (1) WRAMP is the board approved monitoring program((s)) which will participate in the board's substance abuse monitoring program. A monitoring program approved by the board may be contracted with an entity outside the department but within the state, out of state, or a separate structure within the department.

((1) The approved monitoring program will not provide evaluation or treatment to the participating physical therapists or physical therapist assistants.

((2) The approved monitoring program)) WRAMP will employ staff ((must have)) with the qualifications and knowledge of both substance abuse and the practice of physical therapy as defined in this chapter to be able to evaluate:

- (a) Clinical laboratories;
- (b) Laboratory results;
- (c) Providers of substance abuse treatment, both individuals and facilities;
- (d) Support groups;
- (e) The physical therapy work environment; and
- (f) The ability of the physical therapist or physical therapist assistant to practice with reasonable skill and safety.

((3) The approved monitoring program will)) (2) WRAMP will enter into a monitoring contract with the physical therapist or physical therapist assistant and the board to oversee the physical therapist's or physical therapist assistant's ((compliance with the requirements of the program)) required recovery activities.

((4) The approved monitoring program may make)) (3) WRAMP may make exceptions to individual components of the contract that may be made on an individual basis as needed.

((5) The approved monitoring program staff will)) (4) WRAMP will determine, on an individual basis, whether a physical therapist or physical therapist assistant will be prohibited from engaging in the practice of physical therapy for a period of time and restrictions, if any, on the physical therapist's or physical therapist assistant's access to controlled substances in the work place.

((6) The approved monitoring program shall)) (5) WRAMP will maintain records on participants.

((7) The approved monitoring program will)) (6) WRAMP will be responsible for providing feedback to the physical therapist or physical therapist assistant as to whether treatment progress is acceptable.

((8) The approved monitoring program shall)) (7) WRAMP will report to the board any physical therapist or physical therapist assistant who fails to comply with the requirement of the monitoring program.

((9) The approved monitoring program shall receive from)) (8) The board ((guidelines)) approves WRAMP's procedures on treatment, monitoring, and limitations on the practice of physical therapy for those participating in the program.

**AMENDATORY SECTION** (Amending WSR 08-17-026, filed 8/13/08, effective 8/13/08)

**WAC 246-915-330 Participation in approved substance abuse monitoring program.** (1) ((In lieu of disciplinary action, the physical therapist or physical therapist assistant may accept board referral into the approved)) Any physical therapist or physical therapist assistant participating in the substance abuse monitoring program((-)) shall:

((a) ((The physical therapist or physical therapist assistant shall)) Undergo a complete ((physical and)) psychosocial evaluation before entering the approved monitoring program. This evaluation will be performed by health care professional(s) with expertise in ((chemical dependency. The person(s) performing the evaluation shall not also be the provider of the recommended treatment)) substance use disorder. The person(s) performing the evaluation shall not also be the provider of the recommended treatment.

((b) ((The physical therapist or physical therapist assistant shall)) Enter into a contract with ((the board and the approved substance abuse monitoring program to comply with the requirements of the program)) WRAMP which shall include, but not be limited to, the following terms, which require the physical therapist or physical therapist assistant to:

((i) ((The physical therapist or physical therapist assistant will)) Undergo ((intensive substance abuse)) the recommended level of treatment in an approved treatment facility, including aftercare.

((ii) ((The physical therapist or physical therapist assistant will agree to remain free of)) Abstain from all mind-altering substances including alcohol and cannabis except for medications prescribed by an authorized prescriber, as defined in RCW 69.41.030 and 69.50.101.

((iii) ((The physical therapist or physical therapist assistant must)) Complete ((the)) any prescribed aftercare program of the intensive treatment facility, which may include individual ((and/or)) or group psychotherapy.

((iv) ((The physical therapist or physical therapist assistant must)) Cause the treatment counselor(s) to provide reports to the approved monitoring program at specified intervals. Reports ((shall)) must include treatment, prognosis and goals.

((v) ((The physical therapist or physical therapist assistant will submit to)) Complete random or for cause drug screening as specified by ((the approved monitoring program)) WRAMP.

((vi) ((The physical therapist or physical therapist assistant will)) Attend support groups facilitated by a health care professional ((and/or twelve step)) or recovery-oriented group meetings as specified by the monitoring contract.

((vii) ((The physical therapist or physical therapist assistant will)) Comply with specified employment conditions and restrictions as defined by the monitoring contract.

((viii) ((The physical therapist or physical therapist assistant shall sign a waiver allowing the approved monitoring program)) Agree in writing to allow WRAMP to release information to the board if the physical therapist or physical therapist assistant does not comply with the requirements of ((this)) the monitoring contract or is unable to practice with reasonable skill and safety.

((e) The physical therapist or physical therapist assistant is responsible for paying)) (ix) Pay the costs of the ((physical and psychosocial)) substance use disorder evaluation, substance abuse treatment, and random drug screens.

((d) The physical therapist or physical therapist assistant may be subject to disciplinary action under RCW 18.130.160 if the physical therapist or physical therapist assistant does not consent to be referred to the approved monitoring program, does not comply with specified employment restrictions, or does not successfully complete the program.

(2) A physical therapist or physical therapist assistant who is not being investigated by the board or subject to current disciplinary action or currently being monitored by the board for substance abuse may voluntarily participate in the approved substance abuse monitoring program without being referred by the board. Such voluntary participants shall not be subject to disciplinary action under RCW 18.130.160 for their substance abuse, and shall not have their participation made known to the board if they meet the requirements of the approved monitoring program:

(a) The physical therapist or physical therapist assistant shall undergo a complete physical and psychosocial evaluation before entering the approved monitoring program. This evaluation will be performed by health care professional(s) with expertise in chemical dependency. The person(s) performing the evaluation shall not also be the provider of the recommended treatment.

(b) The physical therapist or physical therapist assistant shall enter into a contract with the approved substance abuse monitoring program to comply with the requirements of the program which shall include, but not be limited to:

(i) The physical therapist or physical therapist assistant will undergo intensive substance abuse treatment in an approved treatment facility.

(ii) The physical therapist or physical therapist assistant will agree to remain free of all mind altering substances including alcohol except for medications prescribed by an authorized prescriber, as defined in RCW 69.41.030 and 69.50.101.

(iii) The physical therapist or physical therapist assistant must complete the prescribed aftercare program of the intensive treatment facility, which may include individual and/or group psychotherapy.

(iv) The physical therapist or physical therapist assistant must cause the treatment counselor(s) to provide reports to the approved monitoring program at specified intervals. Reports shall include treatment, prognosis and goals.

(v) The physical therapist or physical therapist assistant will submit to random drug screening as specified by the approved monitoring program.

(vi) The physical therapist or physical therapist assistant will attend support groups facilitated by a health care professional and/or twelve step group meetings as specified by the contract.

(vii) The physical therapist or physical therapist assistant will comply with employment conditions and restrictions as defined by the contract.

(viii) The physical therapist or physical therapist assistant shall sign a waiver allowing the approved monitoring program to release information to the board if the physical

~~therapist or physical therapist assistant does not comply with the requirements of this contract.~~

(e) The physical therapist or physical therapist assistant is responsible for paying the costs of the physical and psychosocial evaluation, substance abuse treatment, and random drug screens.

(3) The treatment and pretreatment records of license holders referred to or voluntarily participating in approved monitoring programs shall be confidential, shall be exempt from RCW 42.17.250 through 42.17.450 and shall not be subject to discovery by subpoena or admissible as evidence except for monitoring records reported to the disciplinary authority for cause as defined in subsections (1) and (2) of this section. Records held by the board under this section shall be exempt from RCW 42.17.250 through 42.17.450 and shall not be subject to discovery by subpoena except by the license holder.) (x) Sign any requested release of information authorizations.

(2) When referred to WRAMP in lieu of discipline, the physical therapist or physical therapist assistant shall enter into a referral contract with the board. The board may take disciplinary action against the license of the physical therapist or physical therapist assistant under RCW 18.130.160 based on the violation by the physical therapist or physical therapist assistant of the referral contract.

(3) A physical therapist or physical therapist assistant may voluntarily participate in WRAMP in accordance with RCW 18.130.175(2) without first being referred to WRAMP by the board.

#### AMENDATORY SECTION (Amending WSR 08-17-026, filed 8/13/08, effective 8/13/08)

**WAC 246-915-350 Inactive credential.** (1) A physical therapist or physical therapist assistant may obtain an inactive credential((. Refer to the requirements of)) as described in chapter 246-12 WAC, Part 4.

(2) ((Practitioners)) A physical therapist or physical therapist assistant with an inactive credential for three years or less who ((wish)) wishes to return to active status ((must)) shall meet the requirements of chapter 246-12 WAC, Part 4.

(3) ((Practitioners)) A physical therapist or physical therapist assistant with an inactive credential for more than three years, who have been in active practice in another United States jurisdiction, and ((wish)) wishes to return to active status ((must)) shall:

(a) Submit verification of active practice from any other United States jurisdiction; and

(b) Meet the requirements of chapter 246-12 WAC, Part 4.

(4) ((Practitioners)) A physical therapist or physical therapist assistant with an inactive credential for more than three years, but less than five years, who ((have)) has not been in active practice in another United States jurisdiction, and ((wish)) wishes to return to active status ((must)) shall:

(a) Successfully pass the ((examination)) NPTE as provided in RCW 18.74.035. The board may waive reexamination if the ((practitioner)) physical therapist or physical therapist assistant presents evidence of continuing competency satisfactory to the board; and

(b) ((Must) Shall) meet the requirements of chapter 246-12 WAC, Part ((2)) 4.

(5) A physical therapist or physical therapist assistant with an inactive credential for five years or longer, who has not been in active practice in another United States jurisdiction, and wishes to return to active status shall:

(a) Meet the requirements of chapter 246-12 WAC, Part 4; and

(b) Successfully retake and pass the NPTE as provided in RCW 18.74.035.

**AMENDATORY SECTION** (Amending WSR 06-18-044, filed 8/30/06, effective 9/30/06)

**WAC 246-915-360 Sharp debridement education and training.** Licensed physical therapists may perform sharp debridement upon showing evidence of adequate education and training. Physical therapists ((may) shall) not delegate sharp debridement. The board will accept the following as adequate education and training:

(1) Twenty hours of mentored sharp debridement training ((~~-mentored training~~) in a clinical setting that includes observation, cotreatment, ((and)) supervised treatment((~~-Twenty hours mentored training in a clinical setting must include~~)), and a case mix similar to the physical therapists' expected practice((~~; or~~)).

(2) Certification as a wound care specialist by the American Academy of Wound Management; the National Alliance of Wound Care; or other organizations approved by the board, meets the requirements of this section((~~; or~~).

(3) An affidavit submitted prior to July 1, 2006, by a physical therapist licensed in Washington demonstrating education and training in sharp debridement, including the use of a scalpel)).

**AMENDATORY SECTION** (Amending WSR 06-18-044, filed 8/30/06, effective 9/30/06)

**WAC 246-915-370 Electroneuromyographic examinations education and training.** A physical therapist may perform electroneuromyographic (EMG) examinations, which may include needle EMG and nerve conduction studies, to test neuromuscular function only if the physical therapist has received a referral from an authorized health care practitioner identified in RCW 18.74.010(((7))) (1) and only upon demonstrating education and training in EMG examinations. The performance of tests of neuromuscular function includes the performance of electroneuromyographic examinations. The board will accept the following as evidence of education and training:

(1) A minimum of four hundred hours of instruction in electroneuromyographic examinations including at least two hundred needle EMG studies under direct supervision from a qualified provider. A qualified provider includes a physical therapist with board certification in clinical electrophysiology from the American Board of Physical Therapy Specialties, a neurologist, or a physiatrist; or

(2) A person who is board certified in clinical electrophysiology from the American Board of Physical Therapy Specialties meets the requirements of this section((~~; or~~).

(3) A written attestation submitted prior to July 1, 2007, by a physical therapist licensed in Washington demonstrating that the physical therapist has education and experience acceptable to the board to perform EMG examinations)).

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 246-915-070 Application due date.

WAC 246-915-220 Mandatory reporting—Physical therapists.

WAC 246-915-230 Health care institutions and home health agencies—Mandatory reporting.

WAC 246-915-240 Physical therapy associations or societies—Mandatory reporting.

WAC 246-915-250 Health care service contractors and disability insurance carriers—Mandatory reporting.

WAC 246-915-260 Professional liability carriers—Mandatory reporting.

WAC 246-915-270 Courts—Mandatory reporting.

WAC 246-915-280 State and federal agencies—Mandatory reporting.

## **WSR 18-15-070 PERMANENT RULES DEPARTMENT OF FISH AND WILDLIFE**

[Filed July 17, 2018, 8:41 a.m., effective August 17, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Amends rules for commercial salmon fishing in Willapa Bay and includes WAC 220-354-250 Willapa Bay salmon fall fishery. The changes incorporate recommendations of the North of Falcon subgroup of the Pacific Fisheries Management Council for taking harvestable numbers of salmon during the commercial salmon fisheries in Willapa Bay, while protecting species of fish listed as endangered.

Citation of Rules Affected by this Order: Amending WAC 220-354-250 Willapa Bay salmon fall fishery.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.045, 77.120.047 [77.12.047].

Adopted under notice filed as WSR 18-11-041 on May 9, 2018.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: July 17, 2018.

Joe Stohr  
Director

**AMENDATORY SECTION** (Amending WSR 17-17-012 [18-11-052], filed 8/4/17 [5/10/18], effective 9/4/17 [6/10/18])

**WAC 220-354-250 Willapa Bay salmon fall fishery.** From August 16 through December 31 of each year, it is unlawful to fish for salmon in Willapa Bay for commercial purposes or to possess salmon taken from those waters for commercial purposes, except that:

Fishing periods:

- (1) Gillnet gear may be used to fish for coho salmon, chum salmon, and Chinook salmon:

Area	Time	Date(s)	Maximum Mesh Size
((2M, 2R	<u>7:00 a.m. through 7:00 p.m.</u>	<u>9/5</u>	<u>4.25"</u>
2M, 2N, 2R	<u>7:00 a.m. through 7:00 p.m.</u>	<u>9/11, 9/12</u>	<u>4.25"</u>
2T	<u>6:00 a.m. through 6:00 p.m.</u>	<u>9/18</u>	<u>4.25"</u>
2N	<u>6:00 a.m. through 6:00 p.m.</u>	<u>9/18, 9/19, 9/20, 9/21, 9/22</u>	<u>4.25"</u>
2M	<u>6:00 a.m. through 6:00 p.m.</u>	<u>9/18, 9/19, 9/20</u>	<u>4.25"</u>
2R	<u>6:00 a.m. through 6:00 p.m.</u>	<u>9/18, 9/19, 9/20, 9/21</u>	<u>4.25"</u>
2U	<u>6:00 a.m. through 6:00 p.m.</u>	<u>9/18, 9/19, 9/20, 9/21</u>	<u>4.25"</u>
2N, 2R	<u>7:00 a.m. through 7:00 p.m.</u>	<u>9/25, 9/26, 9/27, 9/28, 9/29</u>	<u>6.5"</u>
2M	<u>7:00 a.m. through 7:00 p.m.</u>	<u>9/25, 9/26, 9/27, 9/28</u>	<u>6.5"</u>
2T	<u>7:00 a.m. through 7:00 p.m.</u>	<u>9/25, 9/26</u>	<u>4.25"</u>
2U	<u>7:00 a.m. through 7:00 p.m.</u>	<u>9/25, 9/26, 9/27, 9/28, 9/29</u>	<u>4.25"</u>
2R	<u>6:00 a.m. through 6:00 p.m.</u>	<u>10/2, 10/3, 10/4, 10/5, 10/6</u>	<u>6.5"</u>
2M, 2N	<u>6:00 a.m. through 6:00 p.m.</u>	<u>10/3, 10/4, 10/5, 10/6</u>	<u>6.5"</u>
2T	<u>6:00 a.m. through 6:00 p.m.</u>	<u>10/2, 10/3, 10/4, 10/5, 10/6</u>	<u>6.5"</u>
2U	<u>6:00 a.m. through 6:00 p.m.</u>	<u>10/2, 10/3, 10/4, 10/5, 10/6</u>	<u>4.25"</u>
2N, 2R	<u>7:00 a.m. through 7:00 p.m.</u>	<u>10/9, 10/10, 10/11, 10/12, 10/13</u>	<u>6.5"</u>
2M	<u>7:00 a.m. through 7:00 p.m.</u>	<u>10/9, 10/10, 10/11, 10/12</u>	<u>6.5"</u>
2T	<u>7:00 a.m. through 7:00 p.m.</u>	<u>10/9, 10/10</u>	<u>6.5"</u>
2U	<u>7:00 a.m. through 7:00 p.m.</u>	<u>10/9, 10/10, 10/11, 10/12, 10/13</u>	<u>4.25"</u>
2M, 2N, 2R, 2T, 2U	<u>12:01 a.m. through 11:59 p.m.</u>	<u>10/31 through 11/2</u>	<u>6.5"</u>
2M, 2N, 2R, 2T, 2U	<u>12:01 a.m. through 11:59 p.m.</u>	<u>11/6 through 11/10</u>	<u>6.5"</u>
2M, 2N, 2R, 2T, 2U	<u>12:01 a.m. through 11:59 p.m.</u>	<u>11/13 through 11/17</u>	<u>6.5"</u>
2M, 2N, 2R, 2T, 2U	<u>12:01 a.m. through 11:59 p.m.</u>	<u>11/20 through 11/24</u>	<u>6.5"</u>
2M, 2N, 2R, 2T, 2U	<u>12:01 a.m. through 11:59 p.m.</u>	<u>11/27 through 12/4</u>	<u>6.5"))</u>
2N	<u>7:00 a.m. through 7:00 p.m.</u>	<u>9/4</u>	<u>4.25"</u>
2M	<u>7:00 a.m. through 7:00 p.m.</u>	<u>9/6</u>	<u>4.25"</u>
2N	<u>7:00 a.m. through 7:00 p.m.</u>	<u>9/8</u>	<u>4.25"</u>
2N	<u>7:00 a.m. through 7:00 p.m.</u>	<u>9/10, 9/13, 9/15,</u>	<u>4.25"</u>
2M	<u>6:00 p.m. through 6:00 a.m.</u>	<u>9/11 through 9/12</u>	<u>4.25"</u>
2N, 2M	<u>7:00 a.m. through 7:00 p.m.</u>	<u>9/17, 9/18, 9/19, 9/20, 9/21</u>	<u>6.5"</u>
2U	<u>7:00 a.m. through 7:00 p.m.</u>	<u>9/17, 9/18, 9/19</u>	<u>4.25"</u>

Area	Time	Date(s)	Maximum Mesh Size
<u>2T</u>	<u>7:00 a.m. through 7:00 p.m.</u>	<u>9/19, 9/20, 9/21</u>	<u>6.5"</u>
<u>2N</u>	<u>7:00 a.m. through 7:00 p.m.</u>	<u>9/24, 9/25, 9/26, 9/27, 9/28</u>	<u>6.5"</u>
<u>2M</u>	<u>7:00 a.m. through 7:00 p.m.</u>	<u>9/24, 9/25, 9/26, 9/27</u>	<u>6.5"</u>
<u>2T</u>	<u>7:00 a.m. through 7:00 p.m.</u>	<u>9/26, 9/27, 9/28</u>	<u>6.5"</u>
<u>2U</u>	<u>7:00 a.m. through 7:00 p.m.</u>	<u>9/24, 9/25, 9/26</u>	<u>4.25"</u>
<u>2N</u>	<u>7:00 a.m. through 7:00 p.m.</u>	<u>10/2, 10/3, 10/4, 10/5</u>	<u>6.5"</u>
<u>2M</u>	<u>7:00 a.m. through 7:00 p.m.</u>	<u>10/1, 10/2, 10/3, 10/4</u>	<u>6.5"</u>
<u>2T</u>	<u>7:00 a.m. through 7:00 p.m.</u>	<u>10/2, 10/3, 10/4, 10/5</u>	<u>6.5"</u>
<u>2U</u>	<u>7:00 a.m. through 7:00 p.m.</u>	<u>10/1, 10/2, 10/3</u>	<u>4.25"</u>
<u>2U</u>	<u>7:00 a.m. through 7:00 p.m.</u>	<u>10/8, 10/9</u>	<u>4.25"</u>
<u>2U</u>	<u>7:00 a.m. through 7:00 p.m.</u>	<u>10/11, 10/12</u>	<u>4.25"</u>
<u>2T</u>	<u>7:00 a.m. through 7:00 p.m.</u>	<u>10/10</u>	<u>6.5"</u>
<u>2U</u>	<u>12:01 a.m. through 11:59 p.m.</u>	<u>11/1 through 11/2</u>	<u>6.5"</u>
<u>2M, 2N, 2T, 2U</u>	<u>12:01 a.m. through 11:59 p.m.</u>	<u>11/5 through 11/9</u>	<u>6.5"</u>
<u>2M, 2N, 2R, 2T, 2U</u>	<u>12:01 a.m. through 11:59 p.m.</u>	<u>11/12 through 11/16</u>	<u>6.5"</u>
<u>2M, 2N, 2R, 2T, 2U</u>	<u>12:01 a.m. through 11:59 p.m.</u>	<u>11/19 through 11/23</u>	<u>6.5"</u>
<u>2M, 2N, 2R, 2T, 2U</u>	<u>12:01 a.m. through 11:59 p.m.</u>	<u>11/26 through 11/30</u>	<u>6.5"</u>

**Gear:**

(2) Gillnet gear restrictions - All areas:

(a) Drift gillnet gear only. It is unlawful to use set net gear.

(b) It is permissible to have on board a commercial vessel more than one net, provided the nets are of a mesh size that is legal for the fishery, and the length of any one net does not exceed one thousand five hundred feet in length.

(c) It is unlawful to use a gillnet to fish for salmon if the lead line weighs more than two pounds per fathom of net as measured on the cork line.

(d) It is permissible to have a gillnet with a lead line weighing more than two pounds per fathom aboard a vessel when the vessel is fishing in or transiting through Willapa Bay, provided the net is properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope that is 3/8 (0.375) inches or greater.

(e) From 12:01 a.m. September ((§)) 4 through 11:59 p.m. ((December 1)) November 30, 2018: Mesh size must not exceed six and one-half inches stretched, except mesh size must not exceed four and one-quarter inches stretched in Area((s-2M and 2R)) 2N on September ((§)) 4, 8, 10, 13, and 15, in Area((s)) 2M on September ((11, 12, 18, 19, and 20, 2N on September 11, 12, 18, 19, 20, 21, and 22, and 2R on September 11, 12, 18, 19, 20, and 21, in Area 2T on September 18, 25, and 26)) 6, 11, and 12, and in Area 2U on September 17, 18, 19, ((20, 21)) 24, 25, 26((, 27, 28, 29)), October 1, 2, 3, ((4, 5, 6)) 8, 9, ((10,)) 11, and 12((, and 13)).

Other:

(3) Recovery boxes and soak time limits described in this section are required from 12:01 a.m. September ((§)) 4 through 11:59 p.m. ((October 13)) November 30, 2018:

(a) Each boat must have two operable recovery boxes or one box with two chambers on board when fishing in Willapa Bay Areas 2M, 2N, 2R, 2T, and 2U.

(i) Each box and chamber must be operating during any time the net is being retrieved or picked. The flow in the recovery box must be a minimum of 16 gallons per minute in each chamber of the box, not to exceed 20 gallons per minute.

(ii) Each chamber of the recovery box must meet the following dimensions as measured from within the box:

(A) The inside length measurement must be at or within 39-1/2 inches to 48 inches;

(B) The inside width measurements must be at or within 8 to 10 inches; and

(C) The inside height measurement must be at or within 14 to 16 inches.

(iii) Each chamber of the recovery box must include a water inlet hole between 3/4 inch and 1 inch in diameter, centered horizontally across the door or wall of the chamber and 1-3/4 inches from the floor of the chamber. Each chamber of the recovery box must include a water outlet hole opposite the inflow that is at least 1-1/2 inches in diameter. The center of the outlet hole must be located a minimum of 12 inches above the floor of the box or chamber. The fisher must demonstrate to department employees, fish and wildlife enforcement officers, or other peace officers, upon request, that the pumping system is delivering the proper volume of fresh river/bay water into each chamber.

(b) All steelhead and wild (unmarked) Chinook must be placed in an operating recovery box, which meets the requirements in (a) of this subsection prior to being released to the river/bay as set forth in (c) of this subsection. From ((September 5)) November 1 through ((December 1, 2017)) November 30, 2018, all chum must be placed in an operating recovery box which meets the requirements in (a) of this subsection

prior to being released to the river/bay as set forth in (c) of this subsection.

(c) All fish placed in recovery boxes must remain until they are not lethargic and/or not bleeding and must be released to the river/bay prior to landing or docking.

(d) Soak time must not exceed 45 minutes. Soak time is defined as the time elapsed from when the first of the gillnet web is deployed into the water until the gillnet web is fully retrieved from the water.

(4) Quick reporting is required for wholesale dealers and fishers retailing their catch under a "~~direct retail endorsement~~ limited fish seller endorsement." According to WAC ((220-352-180(14))) 220-352-320, reports must be made by 10:00 a.m. the day following landing, unless otherwise specified in an electronic fish receiving ticket reporting agreement (see WAC 220-352-035(3)).

(5) Retention prohibitions:

(a) All green and white sturgeon and all steelhead, except as provided in subsection (3) of this section, must be handled with care to minimize injury to the fish and must be released immediately to the river/bay.

(b) Retention of any species other than coho ((~~salmon or~~), Chinook, or chum salmon) is prohibited.

(c) From 12:01 a.m. September ((5)) 4 through 11:59 p.m. October ((13)) 12, 2018, retention of any species other than coho ((~~salmon or~~), hatchery Chinook marked by a healed scar at the site of the adipose fin, or chum salmon) is prohibited.

(d) From 12:01 a.m. ((October 31)) November 1 through 11:59 p.m. ((December 1)) November 30, 2018, retention of any species other than coho salmon((;)) or hatchery Chinook salmon marked by a healed scar at the site of the adipose fin((, or wild (unmarked) Chinook)) is prohibited.

(6) Report ALL encounters of green sturgeon, steelhead, and wild (unmarked) Chinook (your name, date of encounter, and number of species encountered) to the quick reporting office via phone at 866-791-1280, fax at 360-249-1229, or email at harborfishtickets@dfw.wa.gov. Fishers may have wholesale dealers use the "buyer only" portion of the fish ticket and have encounters included with each day's quick reporting.

(7) Do NOT remove tags from white sturgeon. Please obtain available information from tags without removing tags. Submit tag information to the Washington Department of Fish and Wildlife, 48 Devonshire Rd., Montesano, WA 98563.

(8) Those waters of Area 2T north of a line from Toke Point channel marker 3 easterly through Willapa Harbor channel marker 13 (green), then northeasterly to the power transmission pole located at 46°43.1907'N, 123°50.83134'W are CLOSED from ((6:00)) 12:01 a.m. September ((18, 2017)) 19, 2018, through 11:59 p.m., September ((30, 2017)) 28, 2018.

(9) It is unlawful to fish with gillnet gear in Areas 2M, 2N, 2R, 2T, and 2U unless the vessel operator has attended a "Fish Friendly" best fishing practices workshop and has in their possession a department-issued certification card.

(10) Fishers must take department observers if requested by department staff when participating in these openings. Fishers also must provide notice of intent to participate by

contacting quick reporting by phone, fax or email. Notice of intent must be given prior to 5:00 p.m. on August ((28, 2017)) 25, 2018.

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

**Reviser's note:** RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

**Reviser's note:** The unnecessary underscoring in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

### WSR 18-15-083

#### PERMANENT RULES

#### DEPARTMENT OF ECOLOGY

[Order 16-02—Filed July 18, 2018, 7:34 a.m., effective October 1, 2018]

Effective Date of Rule: October 1, 2018.

Purpose: The department of ecology is repealing existing chapter 173-360 WAC and adopting new chapter 173-360A WAC, Underground storage tank (UST) regulations. The new chapter modifies and replaces the repealed chapter. The rule was modified to:

- Incorporate federal rule changes needed to maintain state program approval, as specified in 40 C.F.R. Parts 280 and 281 (such as new operation and maintenance requirements for UST systems and requirements for field-constructed tanks and airport hydrant systems).

- Integrate changes to the state statute that authorizes the program, chapter 90.76 RCW (such as licensing requirements for UST systems).

- Update other requirements governing the program (such as UST service provider requirements).

- Streamline rule requirements, improve rule clarity, and improve consistency within the rule and with other state and federal laws and rules (such as reorganizing the rule).

For more information about the rule making, visit <https://www.ecology.wa.gov/Regulations-Permits/Laws-rules/Rulemaking/WAC-173-360-Mar16>.

Citation of Rules Affected by this Order: New chapter 173-360A WAC; and repealing chapter 173-360 WAC.

Statutory Authority for Adoption: Chapter 90.76 RCW.

Adopted under notice filed as WSR 18-03-178 on January 24, 2018.

Changes Other than Editing from Proposed to Adopted Version: The department of ecology made the following changes, including editing, to chapter 173-360A WAC:

- Throughout rule:** Replaced placeholder dates based on the effective date with actual dates. For example, replaced "effective date of rule" with "October 1, 2018," and "two years after effective date of rule" with "October 1, 2020."

- Throughout rule:** Replaced "shall" with "must" in provisions that impose an obligation to act.

- WAC 173-360A-0110 (2)(a)(iii):** Corrected citation to 40 C.F.R. Part 50.

- WAC 173-360A-0150 (46)(c):** Corrected grammar in definition of "owner."

**5. WAC 173-360A-0200(7):** Clarified where licenses must be displayed by deleting the ambiguous language "where the tanks are located."

**6. WAC 173-360A-0300 (2)(b):** Removed the following two codes of practice for installing UST systems added in the proposed rule:

- Petroleum Equipment Institute, Recommended Practice 1000, "Recommended Practices for the Installation of Marina Fueling Systems;" and
- Petroleum Equipment Institute, Recommended Practice 1400, "Recommended Practices for the Design and Installation of Fueling Systems for Emergency Generators, Stationary Diesel Engines and Oil Burner Systems."

**7. WAC 173-360A-0300(4):** Eliminated prohibition on installing used tanks added in the proposed rule. As under the existing rule, the adopted rule allows used tanks to be installed if they meet applicable performance standards and are recertified by the manufacturer. Ecology must also be notified at least thirty days before used tanks are installed.

**8. WAC 173-360A-0300(5):** Edited language governing installation documentation (changed from "included with the application" to "included as part of the application"). No changes were made to documentation requirements.

**9. WAC 173-360A-0430 (2)(b):** Eliminated the requirement added in the proposed rule for owners and operators to contact a corrosion expert within twenty-four hours when a cathodic protection system fails a cathodic protection test.

**10. WAC 173-360A-0430 (3)(b)(i):** Changed the requirement added in the proposed rule to allow owners and operators to contact a cathodic protection tester instead of a corrosion expert when a rectifier inspection indicates that the system is not operating properly.

**11. WAC 173-360A-0450 (5)(b), 173-360A-0460 (5)(b), 173-360A-0470 (5)(b), 173-360A-0480 (6)(b):** Edited language specifying compliance dates for testing of containment sumps used for interstitial monitoring, testing of spill prevention equipment, inspections of overfill prevention equipment, and testing of release detection equipment. No changes were made to the compliance dates.

**12. WAC 173-360A-0470(1):** Specified purpose of the inspections of overfill prevention equipment.

**13. WAC 173-360A-0480(6):** Edited language by making subsection header (compliance dates) plural instead of singular.

**14. WAC 173-360A-0480(6):** Specified that testing of automatic line leak detectors is an existing requirement that must continue to be complied with. All other testing of release detection equipment must begin by the specified compliance dates.

**15. WAC 173-360A-0920:** In Table 920-1, edited the description of the UST system service "Installing UST systems or components" by deleting "except cathodic protection."

**16. WAC 173-360A-0920:** In Table 920-1, edited footnote (1). No changes were made to the requirement.

**17. WAC 173-360A-1005 (7) and (11):** Edited language in definitions of "local government" and "property damage" by adding preposition "to" in the first sentence.

A final cost-benefit analysis is available by contacting Kristopher Grinnell, Department of Ecology, Toxics Cleanup Program, P.O. Box 47600, Olympia, WA 98504-7600, phone 360-407-7382, people with speech disability may call TTY 877-833-6341, people with impaired hearing may call Washington relay service 711, email USTrule@ecy.wa.gov, web site <https://fortress.wa.gov/ecy/publications/SummaryPages/1809058.html>[html].

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 59, Amended 0, Repealed 1; or Recently Enacted State Statutes: New 67, Amended 0, Repealed 2.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 43, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 113, Amended 0, Repealed 89.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: July 18, 2018.

Maia D. Bellon  
Director  
by Polly Zehm

#### REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 173-360-100 Purpose and authority.

WAC 173-360-105 Intergovernmental agreements.

WAC 173-360-110 Applicability, exemptions, and deferrals.

WAC 173-360-120 Definitions.

WAC 173-360-130 Tank permits and delivery of regulated substances.

WAC 173-360-140 Investigation and access.

WAC 173-360-150 Compliance monitoring.

WAC 173-360-160 Enforcement.

WAC 173-360-165 Delivery prohibition.

WAC 173-360-170 Penalties.

WAC 173-360-180 Public participation and information sharing.

WAC 173-360-190 Annual tank fees.

WAC 173-360-200 Notification requirements.

WAC 173-360-210 Reporting and recordkeeping requirements.

WAC 173-360-300 Performance standards for deferred UST systems.

- WAC 173-360-305 Performance standards for new UST systems.
- WAC 173-360-310 Upgrading requirements for existing UST systems.
- WAC 173-360-315 Spill and overfill control requirements.
- WAC 173-360-320 Operation and maintenance of corrosion protection.
- WAC 173-360-323 Compatibility.
- WAC 173-360-325 Repairs of UST systems.
- WAC 173-360-330 Release detection compliance schedule.
- WAC 173-360-335 Release detection for petroleum UST systems.
- WAC 173-360-340 Release detection for hazardous substance UST systems.
- WAC 173-360-345 Methods of release detection for tanks.
- WAC 173-360-350 Methods of release detection for piping.
- WAC 173-360-355 Release detection recordkeeping.
- WAC 173-360-360 Reporting of suspected releases.
- WAC 173-360-365 Investigation due to offsite impacts.
- WAC 173-360-370 Release investigation and confirmation steps.
- WAC 173-360-372 Reporting of confirmed releases.
- WAC 173-360-375 Cleanup and reporting of spills and overfills.
- WAC 173-360-380 Temporary closure of UST systems.
- WAC 173-360-385 Permanent closure and change-in-service.
- WAC 173-360-390 Site assessment at closure or change-in-service.
- WAC 173-360-395 Applicability to previously closed UST systems.
- WAC 173-360-398 Closure records.
- WAC 173-360-399 Corrective action requirements.
- WAC 173-360-400 Applicability.
- WAC 173-360-403 Compliance dates.
- WAC 173-360-406 Amount and scope of required financial responsibility.
- WAC 173-360-410 Allowable mechanisms and combinations of mechanisms.
- WAC 173-360-413 Financial test of self-insurance.
- WAC 173-360-416 Guarantee.
- WAC 173-360-420 Insurance and risk retention group coverage.
- WAC 173-360-423 Surety bond.
- WAC 173-360-426 Letter of credit.
- WAC 173-360-433 Trust fund.
- WAC 173-360-436 Standby trust fund.
- WAC 173-360-440 Substitution of financial assurance mechanisms by owner or operator.
- WAC 173-360-443 Cancellation or nonrenewal by a provider of financial assurance.
- WAC 173-360-446 Reporting by owner or operator.
- WAC 173-360-450 Recordkeeping.
- WAC 173-360-453 Drawing on financial assurance mechanisms.
- WAC 173-360-456 Release from the requirements.
- WAC 173-360-460 Bankruptcy or other incapacity of owner or operator.
- WAC 173-360-463 Replenishment of guarantees, letters of credit, or surety bonds.
- WAC 173-360-466 Suspension of enforcement.
- WAC 173-360-470 Appendix A—Letter from chief financial officer.
- WAC 173-360-473 Appendix B—Guarantee.
- WAC 173-360-476 Appendix C—Endorsement.
- WAC 173-360-480 Appendix D—Certificate of insurance.
- WAC 173-360-483 Appendix E—Performance bond.
- WAC 173-360-486 Appendix F—Irrevocable standby letter of credit.
- WAC 173-360-490 Appendix G—Trust agreement.
- WAC 173-360-493 Appendix H—Certification of acknowledgment.
- WAC 173-360-496 Appendix I—Certification of financial responsibility.
- WAC 173-360-499 Appendix J—Certification of valid claim.
- WAC 173-360-500 Local delegation of underground storage tank programs.
- WAC 173-360-510 Environmentally sensitive areas.
- WAC 173-360-520 Physical criteria for environmentally sensitive areas.
- WAC 173-360-530 Application for designation of environmentally sensitive area and approval of local regulations.
- WAC 173-360-600 Purpose of Part VI.
- WAC 173-360-610 Scope.
- WAC 173-360-620 Types of certifications.
- WAC 173-360-630 Responsibilities of certified UST supervisors.
- WAC 173-360-670 Penalties.
- WAC 173-360-700 Purpose and applicability.
- WAC 173-360-710 Designation of operators.
- WAC 173-360-720 Timing of operator training.
- WAC 173-360-730 Training requirements for operators.

WAC 173-360-740 Retraining requirements for Class A and Class B operators.

WAC 173-360-745 Operation and maintenance plans.

WAC 173-360-750 Emergency response requirements.

WAC 173-360-760 Documentation and recordkeeping.

WAC 173-360-800 Purpose and applicability.

WAC 173-360-810 Secondary containment of tanks.

WAC 173-360-820 Secondary containment of piping.

WAC 173-360-830 Under-dispenser containment.

## Chapter 173-360A WAC

### UNDERGROUND STORAGE TANK REGULATIONS

#### PART 1

#### PURPOSE AND SCOPE

##### NEW SECTION

**WAC 173-360A-0100 Purpose of chapter.** This chapter is promulgated under the authority of chapter 90.76 RCW and establishes a statewide underground storage tank program that is intended, at a minimum, to meet the legislature's intent to:

(1) Address the serious threat to human health and the environment posed by leaking underground storage tanks containing petroleum and other regulated substances;

(2) Meet the requirements for delegation of the federal underground storage tank program of the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. Sec. 6901 et seq.);

(3) Be consistent with and no less stringent than the requirements in the federal regulations and the Underground Storage Tank Compliance Act of 2005 (42 U.S.C. Sec. 15801 et seq., Energy Policy Act of 2005, P.L. 109-58, Title XV, Subtitle B); and

(4) Allow for the establishment of local requirements more stringent than the statewide requirements to protect environmentally sensitive areas.

##### NEW SECTION

**WAC 173-360A-0110 Applicability of chapter.** The requirements of this chapter apply to all owners and operators of an UST system, except as otherwise provided in this section.

(1) **Exempt UST systems.** The following UST systems are exempt from all of the requirements of this chapter:

(a) Any UST system holding hazardous wastes subject to Subtitle C of the Solid Waste Disposal Act (42 U.S.C. Sec. 6921 through 6939e), or a mixture of such hazardous waste and other regulated substances;

(b) Any wastewater treatment tank system that is part of a wastewater treatment facility regulated under Section 307(b) or 402 of the Clean Water Act (33 U.S.C. Sec. 1317(b) or 1342);

(c) Any storage tank situated in an underground area (such as a basement, cellar, vault, mineworking, drift, shaft, or tunnel) upon or above the surface of the floor so that routine physical inspection of the exterior of the tank is possible;

(d) Any UST system used solely for heating structures on the property where the system is located;

(e) Any farm or residential UST system with a capacity of one thousand one hundred gallons or less used for storing motor fuel for noncommercial purposes;

(f) Any UST system with a capacity of one hundred ten gallons or less;

(g) Any UST system that contains a de minimis concentration of regulated substances;

(h) Any emergency spill or overflow containment UST system that is expeditiously emptied after use;

(i) Any equipment or machinery that contains regulated substances for operational purposes such as hydraulic lift tanks and electrical equipment tanks;

(j) Any flow-through process tank;

(k) Any septic tank;

(l) Any stormwater or wastewater collection system;

(m) Any surface impoundment, pit, pond, or lagoon;

(n) Any liquid traps or associated gathering lines directly related to oil or gas production and gathering operations; and

(o) Any pipeline facility (including gathering lines):

(i) Which is regulated under 49 U.S.C. chapter 601; or

(ii) Which is an intrastate pipeline facility regulated under state laws as provided in 49 U.S.C. chapter 601, and which is determined by the Secretary of Transportation to be connected to a pipeline, or to be operated or intended to be capable of operating at pipeline pressure or as an integral part of a pipeline.

**(2) Partially exempt UST systems.**

(a) The following UST systems are partially exempt and subject only to the requirements of this chapter specified in (b) of this subsection:

(i) Any wastewater treatment tank system not regulated under Section 307(b) or 402 of the Clean Water Act (33 U.S.C. Sec. 1317(b) or 1342);

(ii) Any UST system containing radioactive material that is regulated under the Atomic Energy Act of 1954 (42 U.S.C. Sec. 2011 et seq.);

(iii) Any UST system that is part of an emergency power generator system at a nuclear power generation facility licensed by the Nuclear Regulatory Commission and subject to Nuclear Regulatory Commission requirements regarding design and quality criteria, including 10 C.F.R. Part 50; and

(iv) Any aboveground storage tanks associated with previously deferred UST systems, as defined in WAC 173-360A-0150(53).

(b) The partially exempt UST systems identified in (a) of this subsection are subject only to the following requirements of this chapter:

(i) WAC 173-360A-0200 (Licensing of UST systems);

(ii) WAC 173-360A-0210 (Fees for UST systems);

(iii) WAC 173-360A-0220 (Facility compliance tags);

(iv) WAC 173-360A-0240(3) (Availability of records);

(v) WAC 173-360A-0250 (Compliance monitoring, investigation, and access);

(vi) WAC 173-360A-0270 (Enforcement);

- (vii) WAC 173-360A-0280 (Delivery prohibition);
- (viii) WAC 173-360A-0290 (Civil penalties);
- (ix) WAC 173-360A-0300 (Installation of UST systems and components);
- (x) WAC 173-360A-0340 (Performance standards for partially exempt UST systems), except for:
  - (A) Aboveground storage tanks associated with previously deferred UST systems; and
  - (B) UST systems for which installation commenced on or before December 22, 1988;
  - (xi) WAC 173-360A-0400(1) and 173-360A-0405(1) (Authority to deliver or deposit regulated substances);
  - (xii) WAC 173-360A-0750 (Reporting and cleanup of confirmed releases);
  - (xiii) WAC 173-360A-0810(5) (Partially exempt UST systems - Notice of permanent closure);
  - (xiv) WAC 173-360A-0820(5) (Partially exempt UST systems - Notice of change-in-service); and
  - (xv) Part 10 of this chapter (Financial responsibility).

**(3) Previously deferred UST system compliance dates.**

(a) Owners and operators of previously deferred UST systems, as defined in WAC 173-360A-0150(53), installed on or before October 1, 2018, must comply with the requirements of this chapter in accordance with the schedule in Table 0110-1.

**Table 0110-1: Previously Deferred UST System Compliance Dates**

Requirements	Compliance Date
Part 1 (purpose and scope)	October 1, 2018
Part 2 (administration and enforcement)	October 1, 2018
Part 3 (installation and performance standards)	October 1, 2021
Part 4 (operation and maintenance)	October 1, 2021
Part 5 (operator training)	October 1, 2021
Part 6 (release detection)	October 1, 2021
Part 7 (release reporting, confirmation, and cleanup)	October 1, 2018
Part 8 (closure)	October 1, 2018
Part 9 (service providers)	October 1, 2018
Part 10 (financial responsibility)	October 1, 2018

(b) Owners and operators of previously deferred UST systems installed after October 1, 2018, must comply with the requirements of this chapter upon installation.

**NEW SECTION**

**WAC 173-360A-0120 Preemption of local programs.** This chapter supersedes and preempts any state or local underground storage tank law, ordinance, or resolution gov-

erning any aspect of regulation covered by this chapter except:

(1) Provisions of the International Fire Code adopted under chapter 19.27 RCW that are not more stringent than and do not directly conflict with the provisions of this chapter;

(2) Local laws, ordinances, and resolutions pertaining to local authority to take immediate action in response to a release of a regulated substance;

(3) Local laws, ordinances, and resolutions pertaining to permits and fees for the use of underground storage tanks in street right of ways that were in effect on July 1, 1990;

(4) City, town, or county underground storage tank ordinances that are more stringent than the federal regulations and the uniform fire code adopted under chapter 19.27 RCW and were in effect on November 1, 1988. Under chapter 90.76 RCW, local jurisdictions were required to notify the department of the existence of such ordinances by July 1, 1989. The department received notification from the city of Redmond, and city of Renton, the city of Spokane, Spokane County, and Tacoma-Pierce County; and

(5) Local laws, ordinances, and resolutions pertaining to the protection of environmentally sensitive areas that are more stringent than the requirements of this chapter and have been approved by the department under WAC 173-360A-0130.

**NEW SECTION**

**WAC 173-360A-0130 Approval of more stringent local requirements.** A city, town, or county may adopt ordinances or resolutions establishing requirements for UST systems within an environmentally sensitive area that are more stringent than the statewide requirements of this chapter, if approved by the department under this section. Designation of an environmentally sensitive area under this section is solely for the purposes of implementing chapter 90.76 RCW.

**(1) Application.** Any city, town, or county may apply to the department to have an area within its jurisdictional boundaries designated an environmentally sensitive area. A city, town, or county may also submit a joint application with any other city, town, or county for joint administration under chapter 39.34 RCW of a single environmentally sensitive area located in both jurisdictions.

**(a) Required information.** The application for designation of an environmentally sensitive area and approval of more stringent UST system requirements must consist of a concise, factual report that provides sufficient information for the department to make a determination. The application must include the following:

(i) A description and map of the area to be designated and where within the area the more stringent UST system requirements would apply;

(ii) A description of the physical characteristics of the area, including any available maps of underground water resources and recharge areas, and an explanation of why those characteristics make it especially vulnerable to the threats posed by releases from UST systems, considering the criteria in subsection (2) of this section;

(iii) A description of the more stringent requirements that would apply to UST systems in the area, and an explanation of why more stringent requirements are necessary to protect the area, considering:

(A) The possible impacts of contaminated groundwater on human health and the environment;

(B) Whether the statewide requirements of this chapter are sufficient to prevent releases that may contaminate the groundwater; and

(C) A description of any other measures in place or considered to protect groundwater or surface water from environmental threats;

(iv) Any written comments submitted by the public on the proposed designation under subsection (3) of this section, and an explanation of how those comments were addressed; and

(v) Documentation of coordination with affected state and local agencies and water user groups under subsection (3) of this section.

(b) **Additional information.** The department may require additional information from the applicant if necessary to adequately evaluate the proposal. This information may include the following:

(i) The geographic limits of the groundwater recharge zone;

(ii) The geographic limits of the underground water resource;

(iii) The geology within both the recharge zone and the underground water resource;

(iv) The location, yield, well depth, and present use of wells within the limits of the threatened underground water resource;

(v) The estimated capacity of the underground water resource;

(vi) The location, type, and number of UST systems in the area; and

(vii) Such other information the department deems necessary.

(2) **Designation criteria.** When applying to the department to designate an environmentally sensitive area, the applicant must demonstrate that the physical characteristics of the area make it especially vulnerable to the threats posed by releases from UST systems and that more stringent requirements for UST systems are necessary to protect the area. To do this, the applicant must demonstrate either:

(a) That the area is designated as a sensitive area for the purposes of protecting groundwater or surface water from pollution under another statute or regulation. If this demonstration is made, then the department must approve its designation as an environmentally sensitive area. Those areas include the following:

(i) An aquifer identified as the primary source of supply for public water supply systems;

(ii) An aquifer underlying a critical water supply service area where the coordinated water system plan established pursuant to chapter 70.116 RCW has identified a need for a groundwater management program;

(iii) An aquifer designated as a sole source aquifer by the U.S. Environmental Protection Agency;

(iv) An area designated as a certified groundwater management area under chapter 173-100 WAC; and

(v) An area designated as an aquifer protection area under chapter 36.36 RCW; or

(b) That the area meets one or more of the following criteria. If this demonstration is made, then the department must evaluate the application based on the overall sensitivity of the environment and the need for more stringent requirements:

(i) The groundwater underlying the area is vulnerable to releases from UST systems based on the hydrogeological characteristics of the area, including the following:

(A) Whether the area is a recharge area for underlying groundwater;

(B) The depth to groundwater;

(C) The permeability of the soils;

(D) The amount of precipitation;

(E) The direction and quantity of groundwater flow; and

(F) The presence of aquitards;

(ii) Proximity of the area to surface water that is hydrogeologically connected to groundwater if releases from an UST system may reasonably reach such groundwater based on the hydrogeological characteristics of the area;

(iii) Proximity of the area to surface water and wetlands;

(iv) The area is located within a one hundred-year flood plain; or

(v) Other criteria published by the department.

(3) **Public involvement.** Before submitting an application for designation and approval of more stringent UST system requirements under subsection (1) of this section, the applicant must:

(a) Provide the public, affected local, state, and tribal agencies, and affected water user groups adequate notice and opportunity to comment on the application; and

(b) Hold at least one public hearing for the purpose of receiving comments on the application from such persons.

#### (4) Review and approval.

(a) **Completeness.** Within thirty days of receiving an application, the department must review the application for completeness and request any additional information needed in order for the application to be complete.

(b) **Public hearing.** Before approving or disapproving the application, the department may, at its discretion, hold an additional public hearing in the jurisdiction where the environmentally sensitive area is proposed.

(c) **Determination.** The department must approve or disapprove the application. The department's determination must be based on:

(i) Review of the application and any comments received;

(ii) Whether the area to be designated meets the definition of an environmentally sensitive area, based on the criteria specified in this section; and

(iii) Whether the proposed more stringent UST system requirements are necessary and reasonably consistent with previously approved local regulations for similar environmentally sensitive areas.

(d) **Resubmittal.** Applications disapproved by the department may be modified by the local government and resubmitted to the department for approval.

(5) **Applicability of approved programs.** Proposed local ordinances and resolutions become effective when approved by the department. An approved local ordinance or resolution may only apply to UST systems installed after the effective date of the ordinance or resolution.

(6) **Local tank fees.** A city, town, or county with an approved ordinance or resolution under this section may establish an annual local tank fee in the environmentally sensitive area, subject to the approval of the department. To be approved, the annual local tank fee must not exceed fifty percent of the annual state tank fee, and must be demonstrated to be necessary for enhanced program administration and enforcement. Annual local tank fees authorized and collected under this section must be deposited in the state underground storage tank account, established under RCW 90.76.100.

#### NEW SECTION

**WAC 173-360A-0140 Intergovernmental agreements.** In order to fully implement this chapter, and to protect surface and groundwater resources that may cross jurisdictional boundaries, the department may negotiate and enter into cooperative agreements with Indian tribal governments, adjacent states, and Canadian governmental agencies. Such cooperative agreements do not affect the regulatory jurisdiction of any party thereto with regard to any civil or criminal matters otherwise exercised by any party. Intergovernmental agreements must further the purpose of this chapter, serve to establish a framework for intergovernmental coordination and cooperation, and serve to minimize duplication and efficiently utilize program resources to manage underground storage tanks and protect surface and groundwater resources.

#### NEW SECTION

**WAC 173-360A-0150 Definitions.** For the purposes of this chapter, the following definitions apply unless the context clearly requires otherwise.

(1) "**Airport hydrant fuel distribution system**" or "**airport hydrant system**" means an UST system which fuels aircraft and operates under high pressure with large diameter piping that typically terminates into one or more hydrants (fill stands). The airport hydrant system begins where fuel enters one or more tanks from an external source such as a pipeline, barge, railcar, or other motor fuel carrier.

(2) "**Ancillary equipment**" means any devices including spill prevention equipment, overfill prevention equipment, corrosion protection equipment, release detection equipment, containment sumps, and such devices as piping, fittings, flanges, valves, and pumps used to distribute, meter, or control the flow of regulated substances to and from an UST.

(3) "**Cathodic protection**" means a technique to prevent corrosion of a metal surface by making that surface the cathode of an electrochemical cell. For example, an UST system can be cathodically protected through the application of either galvanic anodes or impressed current.

(4) "**Cathodic protection tester**" means an individual who can demonstrate an understanding of the principles and measurements of all common types of cathodic protection systems as applied to buried or submerged metal piping and

tank systems. At a minimum, such individuals must have sufficient education in and experience with soil resistivity, stray current, structure-to-soil potential, component electrical isolation measurements of buried metal piping and tank systems. Such individuals must be certified in accordance with WAC 173-360A-0930(6).

(5) "**Change-in-service**" means to change the substances stored in an UST system from regulated substances to unregulated substances.

(6) "**Class A operator**" means an individual designated by an UST system owner or operator as having primary responsibility for the operation and maintenance of the system. The Class A operator typically manages resources and personnel, such as establishing work assignments, to achieve and maintain compliance with regulatory requirements.

(7) "**Class B operator**" means an individual designated by an UST system owner or operator as having control of or responsibility for the day-to-day operation and maintenance of the system. The Class B operator typically performs or ensures the performance of operation and maintenance activities at a UST facility, maintains records of those activities, and reports those activities to the department.

(8) "**Class C operator**" means an individual responsible for initially responding to alarms or other indications of emergencies caused by spills, overfills, leaks, or releases from an UST system. The Class C operator typically controls or monitors the dispensing or sale of regulated substances from the system.

(9) "**Code of practice**" means the most recent edition of a code of practice developed by a nationally or internationally recognized association or independent testing laboratory available at the time an UST system service is performed.

(10) "**Compatible**" means the ability of two or more substances or materials to maintain their respective physical and chemical properties upon contact with one another for the design life of the UST system under conditions likely to be encountered in the UST system.

(11) "**Connected piping**" means all underground piping including valves, elbows, joints, flanges, and flexible connectors attached to an UST system through which regulated substances flow. For the purpose of determining how much piping is connected to any individual UST system, the piping that joins two UST systems should be allocated equally between them.

(12) "**Containment sump**" means a liquid-tight container that protects the environment by containing leaks and spills of regulated substances from piping, dispensers, pumps, and related components in the containment area. Containment sumps may be single walled or secondarily contained and located at the top of tank (tank top or submersible turbine pump sump), underneath the dispenser (under-dispenser containment sump), or at other points in the piping run (transition or intermediate sump).

(13) "**Corrosion expert**" means an individual who, by reason of a thorough knowledge of the physical sciences and the principles of engineering and mathematics acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks.

Such individuals must be certified in accordance with WAC 173-360A-0930(5).

(14) "**Decommission**" means to permanently take a tank or pipe out of operation.

(15) "**Department**" means the department of ecology.

(16) "**Dielectric material**" means a material that does not conduct direct electrical current. Dielectric coatings are used to electrically isolate UST systems from the surrounding soils. Dielectric bushings are used to electrically isolate portions of the UST system (e.g., tank from piping).

(17) "**Dispenser**" means a device used to dispense regulated substances from an UST system.

(18) "**Dispenser system**" means a dispenser and the aboveground equipment necessary to connect the dispenser to an UST system, including check valves, shear valves, unburied risers, flexible connectors, and other transitional components.

(19) "**Double-walled tanks**" and "**double-walled piping**" mean tanks and piping consisting of an inner wall and an outer wall with an interstitial space capable of being monitored for leaks.

(20) "**Electrical equipment**" means, for the purposes of the exemption described in WAC 173-360A-0110 (1)(i), underground equipment that contains dielectric fluid that is necessary for the operation of equipment such as transformers and buried electrical cable.

(21) "**Environment**" means the term as defined in WAC 173-340-200.

(22) "**Excavation zone**" means the volume containing the UST system and backfill material bounded by the ground surface, walls, and floor of the pit and trenches into which the UST system is placed at the time of installation.

(23) "**Existing UST system**" means an UST system used to contain an accumulation of regulated substances or for which installation had commenced on or before December 22, 1988. Installation is considered to have commenced if:

(a) The owner or operator had obtained all federal, state, and local approvals or permits necessary to begin physical construction at the UST facility or installation of the UST system; and

(b) Either a continuous on-site physical construction or installation program had begun or the owner or operator had entered into contractual obligations—which cannot be canceled or modified without substantial loss—for physical construction at the UST facility or installation of the UST system to be completed within a reasonable time.

(24) "**Facility compliance tag**" means a white-colored metal plate with a green-colored identification number issued by the department for display at a UST facility in a location clearly visible to the product deliverer and persons withdrawing waste oil. Each UST facility is identified by a facility compliance tag. Except as otherwise provided in this chapter, it is unlawful for regulated substances to be delivered or deposited into an UST system, or withdrawn from a waste oil UST system, at a UST facility without a valid and properly displayed facility compliance tag.

(25) "**Farm UST system**" means an UST system located on a tract of land devoted to the production of crops or raising animals, including fish, and associated residences

and improvements. A farm UST system must be located on the farm property and used for farm purposes. "Farm" includes fish hatcheries, rangeland, and nurseries with growing operations. It does not include laboratories where animals are raised, land used to grow timber, pesticide aviation operations, retail stores or garden centers where nursery products are marketed but not grown, cemeteries, golf courses, or other facilities dedicated primarily to recreation or aesthetics, or other nonagricultural activities.

(26) "**Field-constructed tank**" means an underground storage tank that is constructed in the field. For example, the following are considered field-constructed tanks: A tank constructed of concrete that is poured in the field, or a steel or fiberglass tank primarily fabricated in the field.

(27) "**Flow-through process tank**" means a tank that forms an integral part of a production process through which there is a steady, variable, recurring, or intermittent flow of materials during the operation of the process. Flow-through process tanks do not include tanks used for the storage of materials prior to their introduction into the production process or for the storage of finished products or by-products from the production process.

(28) "**Free product**" means the term as defined in WAC 173-340-200.

(29) "**Gathering lines**" means any pipeline, equipment, facility, or building used in the transportation of oil or gas during oil or gas production or gathering operations.

(30) "**Groundwater**" means the term as defined in WAC 173-340-200.

(31) "**Hazardous substance**" means any substance defined in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. Sec. 9601(14)). However, the term does not include any substance regulated as a hazardous waste under Subtitle C of the Solid Waste Disposal Act (42 U.S.C. Sec. 6921 through 6939e) or any mixture of such hazardous wastes and other regulated substances.

(32) "**Hazardous substance UST system**" means an UST system that contains a hazardous substance or any mixture of such substances and petroleum, and which is not a petroleum UST system.

(33) "**Hydraulic lift tank**" means a tank holding hydraulic fluid for a closed-loop mechanical system that uses compressed air or hydraulic fluid to operate lifts, elevators, and other similar devices.

(34) "**Include**" means including, but not limited to.

(35) "**Install**" means placing an UST system or any UST system component in position and preparing it to be placed into operation.

(36) "**Interstitial space**" means the space between the primary and secondary containment systems (e.g., the space between the inner and outer walls of a tank or pipe).

(37) "**License**" means the business license underground storage tank endorsement issued by the department of revenue under chapter 19.02 RCW.

(38) "**Liquid trap**" means sumps, well cellars, and other traps used in association with oil and gas production, gathering, and extraction operations (including gas production plants), for the purpose of collecting oil, water, and other liquids. These liquid traps may temporarily collect liquids for

subsequent disposition or reinjection into a production or pipeline stream, or may collect and separate liquids from a gas stream.

(39) "**Maintenance**" means the normal operational upkeep to prevent an UST system from releasing a regulated substance.

(40) "**Motor fuel**" means a complex blend of hydrocarbons typically used in the operation of a motor engine, such as motor gasoline, aviation gasoline, No. 1 or No. 2 diesel fuel, or any blend containing one or more of these substances (for example: Motor gasoline blended with alcohol).

(41) "**New UST system**" means an UST system that will be used to contain an accumulation of regulated substances and for which installation commenced after December 22, 1988. (See also "existing tank system.")

(42) "**Noncommercial purposes**" with respect to motor fuel means not for resale.

(43) "**Operational life**" means the period beginning when installation of an UST system has commenced and ending when the UST system is permanently closed or undergoes a change-in-service.

(44) "**Operator**" means any person in control of, or having responsibility for, the daily operation of the UST system.

(45) "**Owner**" means:

(a) In the case of an UST system in use before November 8, 1984, but no longer in use on that date, any person who owned the UST system immediately before the discontinuation of its use;

(b) In the case of an UST system in use on November 8, 1984, or brought into use after that date, any person who:

(i) Currently owns the UST system; or

(ii) Owned the UST system immediately before its permanent closure or change-in-service; and

(c) In the event that the owner of an UST system cannot be physically located, any person who owns the property where the UST system is located.

The term "owner" does not include any person who holds indicia of ownership primarily to protect the person's security interest in the UST system or the UST facility or property where the UST system is located. The person holding indicia of ownership cannot participate in the management of an UST system or be engaged in petroleum production, refining, and marketing.

(46) "**Permanently closed UST system**" means:

(a) In the case of an UST system taken out of operation before December 22, 1988, the UST system was substantially emptied of regulated substances or permanently altered structurally to prevent reuse;

(b) In the case of an UST system taken out of operation on or after December 22, 1988, and before December 29, 1990, the UST system was permanently closed in accordance with 40 C.F.R. Sec. 280; and

(c) In the case of an UST system taken out of operation on or after December 29, 1990, the UST system was permanently closed in accordance with this chapter.

(47) "**Person**" means an individual, trust, firm, joint stock company, corporation, association, partnership, consortium, joint venture, commercial entity, state, municipality, commission, political subdivision of a state, interstate body, federal government, or agency of the federal government.

(48) "**Petroleum**" means crude oil or any fraction thereof that is liquid at standard conditions of temperature and pressure (sixty degrees Fahrenheit and 14.7 pounds per square inch absolute) and any product comprised of a complex blend of hydrocarbons, such as motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, and used oils. The term does not include propane or asphalt or any other product that is not liquid at standard conditions of temperature and pressure.

(49) "**Petroleum UST system**" means an UST system that contains petroleum or a mixture of petroleum with de minimis quantities of other regulated substances. Such systems include those containing motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, and used oils.

(50) "**Pipe**" or "**piping**" means a hollow cylinder or tubular conduit that is constructed of nonearthen materials.

(51) "**Pipeline facilities (including gathering lines)**" means any new and existing pipe rights of way and any associated equipment, facilities, or buildings.

(52) "**Piping run**" means all underground piping connecting an individual submersible pump or suction stub to an associated dispenser system or other end-use equipment.

(53) "**Previously deferred UST system**" means an UST system with field-constructed tanks or an airport hydrant fuel distribution system.

(54) "**Product deliverer**" means any person who delivers or deposits product into an UST system. This term includes major oil companies, jobbers, petroleum transportation companies, or other product delivery entities.

(55) "**Rectifier adjustment**" means any adjustment or maintenance of a rectifier that is part of an impressed current cathodic protection system, including any adjustment of voltage or amperage or replacement of fuses or diodes. Rectifier adjustments are a type of repair.

(56) "**Red tag**" means a red-colored tag or device on the fill pipe of an UST system that clearly identifies the system as ineligible for product delivery or waste oil withdrawal. The tag or device is tamper resistant and is easily visible to the product deliverer and persons withdrawing waste oil. The tag or device clearly states and conveys, as applicable, that it is unlawful for regulated substances to be delivered or deposited into an UST system or withdrawn from a waste oil UST system.

(57) "**Regulated substance**" means:

(a) Petroleum;

(b) Hazardous substances; and

(c) Mixtures of petroleum and hazardous substances.

(58) "**Release**" means any spilling, overfilling, leaking, emitting, discharging, escaping, leaching, or disposing of regulated substances from an UST system into the environment.

(59) "**Release detection**" means determining whether a release of a regulated substance has occurred from the UST system into the environment or a leak has occurred into the interstitial space between the UST system and its secondary containment.

(60) "**Remedial action**" means the term as defined in WAC 173-340-200.

(61) "**Repair**" means to restore to proper operating condition a tank, pipe, spill prevention equipment, overfill prevention equipment, corrosion protection equipment, release detection equipment, containment sump, or other UST system component that has caused a release of a regulated substance from the UST system or has failed to function properly.

(62) "**Residential UST system**" means an UST system located on property used primarily for dwelling purposes. Such properties do not include dormitories, convents, mobile parks, apartments, hotels and similar facilities, unless the UST system is used by the owner solely for his or her own personal use, rather than to maintain the overall facility.

(63) "**Secondary containment**" means a release prevention system for tanks and piping consisting of an inner barrier and an outer barrier with an interstitial space capable of being monitored for leaks. This term includes containment sumps when used for interstitial monitoring of piping.

(64) "**Septic tank**" means a water-tight covered receptacle designed and used to receive or process, through liquid separation or biological digestion, the sewage discharged from a building sewer. The effluent from such receptacle is distributed for disposal through the soil and settled solids and scum from the tank are pumped out periodically and hauled to a treatment facility.

(65) "**Service provider**" means an individual who is certified to perform or directly supervise the performance of UST system services under WAC 173-360A-0920 and 173-360A-0930.

(66) "**Site assessment**" means an investigation of the environment around an UST system to determine whether there has been a release of regulated substances from the system into the environment and whether a release may pose a threat to human health or the environment.

(67) "**Site check**" means a type of site assessment performed when a release from an UST system is suspected.

(68) "**Stormwater or wastewater collection system**" means piping, pumps, conduits, and any other equipment necessary to collect and transport the flow of surface water run-off resulting from precipitation, or domestic, commercial, or industrial wastewater to and from retention areas or any areas where treatment is designated to occur. The collection of stormwater and wastewater does not include treatment except where incidental to conveyance.

(69) "**Surface impoundment**" means a natural topographic depression, excavation, or diked area formed primarily of earthen materials (although it may be lined with synthetic materials) that is not an injection well.

(70) "**Tank**" is a stationary device designed to contain an accumulation of regulated substances and constructed of nonearthen materials (e.g., concrete, steel, plastic) that provide structural support.

(71) "**Temporarily closed UST system**" means an UST system that has been taken out of operation and will be returned to operation, undergo a change-in-service, or be permanently closed in the future.

(72) "**Tightness testing**" means a procedure for testing the ability of an UST system component to prevent an inadvertent release of regulated substances into the environment or an intrusion of groundwater into an UST system.

(73) "**Under-dispenser containment**" or "**UDC**" means containment underneath a dispenser system designed to prevent leaks from the dispenser and piping within or above the UDC from reaching the environment.

(74) "**Underground storage tank**" or "**UST**" means any one tank or combination of tanks (including underground pipes connected thereto) that is used to contain an accumulation of regulated substances, and the volume of which (including the volume of underground pipes connected thereto) is ten percent or more beneath the ground surface or otherwise covered by earthen materials.

(75) "**Upgrade**" means the addition or retrofit of an UST system component, such as corrosion protection equipment, release detection equipment, or spill and overfill prevention equipment, to improve the ability of an UST system to prevent the release of regulated substances.

(76) "**UST facility**" means the location where one or more UST systems are or will be installed. The term encompasses all contiguous real property under common ownership associated with the operation of the UST system or systems.

(77) "**UST system**" or "**tank system**" means an underground storage tank, connected underground piping, underground ancillary equipment, and containment system, if any.

(78) "**UST system component**" means a component of an UST system, including any underground storage tanks, connected underground piping, underground ancillary equipment, and containment systems.

(79) "**UST system services**" means the services performed on an UST system requiring the use of a service provider as specified in WAC 173-360A-0920.

(80) "**Wastewater treatment tank system**" means a tank system that is designed to receive and treat influent wastewater through physical, chemical, or biological methods.

## NEW SECTION

**WAC 173-360A-0190 Severability.** If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of this chapter or the application of the provision to other persons or circumstances is not affected.

## PART 2

### ADMINISTRATION AND ENFORCEMENT

## NEW SECTION

**WAC 173-360A-0200 Licensing of UST systems.** (1) **Requirement for a license.** An owner or operator must maintain a license for each tank until the UST system has undergone permanent closure or a change-in-service. Without the prior written authorization of the department, an UST system may not be operated without a license for each tank. Possession of a license does not preclude enforcement against owners and operators under this chapter, chapter 90.76 RCW, or other laws.

(2) **Eligibility for a license.** To be eligible for a license, an UST system must be in compliance with the requirements of this chapter and chapter 90.76 RCW.

**(3) Application for a license.**

(a) An owner or operator must apply for a license within thirty days of the following:

- (i) Installation of an UST system or tank; or
- (ii) Change in the owner or operator that is the licensee.

(b) To apply for a license, an owner or operator must submit the following to the department of revenue:

- (i) Business license application;
- (ii) Underground storage tank addendum;
- (iii) Certification of financial responsibility and, if applicable, certificate of insurance or endorsement (WAC 173-360A-1045 (1)(a));

(iv) Annual tank fees (WAC 173-360A-0210) and any other applicable fees identified by the department of revenue (WAC 458-02-200(2)); and

(v) When applying upon installation of an UST system or a tank, the documentation required under WAC 173-360A-0300 (5)(a).

(c) Applications for UST systems located at different UST facilities must be submitted using separate forms, one for each facility.

**(4) Notification of changes in financial assurances.**

Upon any change in the financial assurance mechanism(s) used to demonstrate financial responsibility or upon receipt of a notice of cancellation or termination of any such mechanism, the owner or operator must immediately notify the department of revenue in accordance with WAC 173-360A-1045 (1)(b) and (c). Licenses will not be renewed and may be revoked without proof of financial responsibility.

**(5) Notification of changes in owners or operators that are not licensees.** When the owner or operator that is not the licensee changes, the owner or operator must notify the department of ecology in writing within thirty days.

**(6) Renewal of a license.**

(a) Licenses must be renewed annually. To renew a license, the owner or operator must submit the following to the department of revenue:

- (i) Renewal application; and
- (ii) Annual tank fees (WAC 173-360A-0210) and any other applicable fees identified by the department of revenue (WAC 458-02-200(2)).

(b) If a license is not renewed by the expiration date, the department of revenue may assess a delinquency fee (WAC 458-02-200 (2) and (8)(b)). The department of ecology may also assess a penalty under WAC 173-360A-0290.

**(7) Display of a license.** Licenses must be displayed in a conspicuous place at the UST facility (RCW 90.76.020(4) and WAC 458-02-200(7)).

**(8) Revocation and appeals.** The department of ecology may revoke a license if an UST system is violating any requirement of this chapter or chapter 90.76 RCW. The revocation of a license may be appealed to the pollution control hearings board in accordance with chapter 43.21B RCW.

**NEW SECTION**

**WAC 173-360A-0210 Fees for UST systems.** **(1) Payment.** Annually, the owner of an UST system must pay the following fees for each tank until the system has undergone permanent closure or a change-in-service:

(a) The state tank fee specified by the department under subsection (3) of this section; and

(b) Any applicable local tank fee approved by the department under WAC 173-360A-0130(6).

**(2) Disposition.** State and local tank fees collected under this section must be deposited in the account established under RCW 90.76.100.

**(3) State tank fees.** Effective July 1, 2018, the state tank fee is one hundred seventy-three dollars and eighty cents per tank. Annually, upon a finding by the department that a fee increase is necessary, the department may increase the state tank fee up to the fiscal growth factor for the next year. The fiscal growth factor is calculated by the office of financial management under RCW 43.135.025. The department must publish the new fee by March 1st before the year for which the new fee is effective. The new fee is effective from July 1st to June 30th of every year.

**(4) Preemption of local tank fees.** Except as provided under WAC 173-360A-0130(6), no local government may levy an annual tank fee on the ownership or operation of an underground storage tank.

**NEW SECTION**

**WAC 173-360A-0220 Facility compliance tags.** **(1) Requirement for tag.** Without the prior written authorization of the department, regulated substance may not be delivered or deposited into an UST system, or withdrawn from a waste oil UST system, at a UST facility without a valid and properly displayed facility compliance tag.

**(2) Eligibility for tag.** To be eligible for a facility compliance tag, a UST facility must be in compliance with the requirements of this chapter and chapter 90.76 RCW.

**(3) Issuance of tag.** The department will issue a facility compliance tag for a UST facility upon the initial issuance of a license for an UST system at the facility under WAC 173-360A-0200.

**(4) Display of tag.** A facility compliance tag must be displayed at a UST facility in a location that is clearly visible to product deliverers and persons withdrawing waste oil.

**(5) Revocation and appeals.** The department may revoke a facility compliance tag if a UST facility is violating any requirement of this chapter or chapter 90.76 RCW. The revocation of a facility compliance tag may be appealed to the pollution control hearings board in accordance with chapter 43.21B RCW.

**(6) Return upon temporary closure of facility.** Within thirty days of the temporary closure all UST systems at a UST facility, owners and operators must return the facility compliance tag to the department if the systems will be closed for more than ninety days. The department will reissue a facility compliance tag for the UST facility in accordance with WAC 173-360A-0800 (5)(c).

**(7) Return upon permanent closure or change-in-service of facility.** Within thirty days of the permanent closure or change-in-service of all UST systems at a UST facility, owners and operators must return the facility compliance tag to the department.

**NEW SECTION****WAC 173-360A-0230 Reporting requirements.** (1)

**Licensing of UST systems.** An owner or operator must apply for and renew licenses for UST systems and provide notice of any change in the owner or operator of an UST system in accordance with WAC 173-360A-0200.

(2) **Changes to UST systems.** Owners and operators must notify the department of the following changes in the status of an UST system in accordance with the applicable requirements of this chapter:

(a) Intent to install an UST system or a tank or piping run (WAC 173-360A-0300(1));

(b) Change in the regulated substance stored in an UST system and, if applicable, demonstration of compatibility (WAC 173-360A-0410);

(c) Change in the release detection method used for a tank or pipe (WAC 173-360A-0600(4));

(d) Temporary closure of an UST system (WAC 173-360A-0800(1));

(e) Emptying of a temporarily closed UST system (WAC 173-360A-0800(2));

(f) Return to operation of a temporarily closed UST system (WAC 173-360A-0800 (5)(b)(ii));

(g) Intent to permanently close an UST system or a tank or piping run (WAC 173-360A-0810(1));

(h) Permanent closure of a partially exempt UST system (WAC 173-360A-0810(5));

(i) Intent to undertake a change-in-service of an UST system (WAC 173-360A-0820(1)); and

(j) Change-in-service of a partially exempt UST system (WAC 173-360A-0820(5)).

(3) **UST system services.** Owners and operators must report the following UST system services to the department in accordance with the applicable requirements of this chapter:

(a) Installations of UST systems or UST system components (WAC 173-360A-0300);

(b) Assessments of corrosion potential (WAC 173-360A-0310 (3)(c));

(c) Upgrades of existing UST systems (WAC 173-360A-0320);

(d) Upgrades of previously deferred UST systems (WAC 173-360A-0330);

(e) Tests of cathodic protection systems (WAC 173-360A-0430(2));

(f) Internal inspections of lined tanks (WAC 173-360A-0440);

(g) Tightness tests of containment sumps used for interstitial monitoring of piping (WAC 173-360A-0450);

(h) Tightness tests of spill prevention equipment (WAC 173-360A-0460);

(i) Inspections of overfill prevention equipment (WAC 173-360A-0470);

(j) Tests of electronic or mechanical release detection equipment (WAC 173-360A-0480);

(k) Repairs of UST system components (WAC 173-360A-0490);

(l) Tightness tests of secondary containment areas of tanks or piping used for interstitial monitoring (WAC 173-360A-0490 (4)(c));

- (m) Tightness tests of tanks (WAC 173-360A-0635);
- (n) Tightness tests of piping (WAC 173-360A-0650);
- (o) Site evaluations for vapor or groundwater monitoring systems (WAC 173-360A-0660(2) or 173-360A-0665(2));
- (p) Site assessments, including site checks (WAC 173-360A-0730);

(q) Decommissioning of UST systems, or tanks or piping runs that are part of an UST system, upon permanent closure (WAC 173-360A-0810(2)); and

(r) Decommissioning of UST systems upon a change-in-service (WAC 173-360A-0820(2)).

(4) **Releases from UST systems.** Owners and operators must notify the department of the following in accordance with the applicable requirements of this chapter:

(a) All suspected releases (WAC 173-360A-0700);

(b) All spills and overfills resulting in a release that may pose a threat to human health or the environment or that have not been cleaned up within twenty-four hours (WAC 173-360A-0740); and

(c) All confirmed releases that may pose a threat to human health or the environment (WAC 173-360A-0750(1)).

(5) **Cleanups of releases from UST systems.** Owners and operators must report remedial actions to the department in accordance with chapter 173-340 WAC or as otherwise directed by the department under chapter 90.48 RCW (WAC 173-360A-0750(4)).

**(6) Financial responsibility for UST systems.**

(a) Owners or operators must demonstrate compliance with financial responsibility requirements in accordance with WAC 173-360A-1045(1) and 173-360A-0200 (3) and (4).

(b) Owners or operators must submit financial responsibility records in accordance with WAC 173-360A-1045 (2) and (3) and 173-360A-0750(3).

**(7) Requirements for sellers and lessors.**

(a) Any person who sells a tank must notify the new owner of the licensing requirements in WAC 173-360A-0200.

(b) Any person who leases a tank must notify the new operator of the licensing requirements in WAC 173-360A-0200.

(8) **Requirements for service providers.** Service providers must:

(a) Document the UST system services specified in subsection (3) of this section in accordance with the applicable requirements of this chapter (WAC 173-360A-0940(4));

(b) Notify owners and operators when they determine that the UST system for which they are providing services is not in compliance with the requirements of this chapter in accordance with WAC 173-360A-0940(5); and

(c) Report confirmed releases from UST systems to owners and operators and to the department in accordance with WAC 173-360A-0940(6).

(9) **Requirements for product deliverers and waste oil collectors.** Product deliverers and waste oil collectors must report any spill or overfill of regulated substances to the owner or operator in accordance with WAC 173-360A-0405(4).

NEW SECTION**WAC 173-360A-0240 Recordkeeping requirements.**

(1) **Records.** Owners and operators must maintain records of the following in accordance with the applicable requirements of this chapter:

- (a) Installations of UST systems and UST system components (WAC 173-360A-0300);
- (b) Assessments of corrosion potential (WAC 173-360A-0310 (3)(c));
- (c) Upgrades of existing UST systems (WAC 173-360A-0320);
- (d) Upgrades of previously deferred UST systems (WAC 173-360A-0330);
- (e) Compatibility of UST system components (WAC 173-360A-0350);
- (f) Periodic walkthrough inspections (WAC 173-360A-0420);
- (g) Tests of cathodic protection systems (WAC 173-360A-0430(2));
- (h) Rectifier inspections (WAC 173-360A-0430(3));
- (i) Internal inspections of lined tanks (WAC 173-360A-0440);
- (j) Periodic monitoring and tightness tests of containment sumps used for interstitial monitoring of piping (WAC 173-360A-0450);
- (k) Periodic monitoring and tightness tests of spill prevention equipment (WAC 173-360A-0460);
- (l) Inspections of overfill prevention equipment (WAC 173-360A-0470);
- (m) Operation and maintenance, including tests, of release detection equipment (WAC 173-360A-0480);
- (n) Repairs of UST system components (WAC 173-360A-0490);
- (o) Tightness tests of secondary containment areas of tanks and piping used for interstitial monitoring (WAC 173-360A-0490 (4)(c));
- (p) Current operation and maintenance plans (WAC 173-360A-0545);
- (q) Currently designated operators and training (WAC 173-360A-0560);
- (r) Compliance with release detection requirements (WAC 173-360A-0600);
- (s) Site assessments, including site checks (WAC 173-360A-0730);
- (t) Investigation and cleanup of confirmed releases (WAC 173-360A-0750(4) and 173-340-850); and
- (u) Compliance with financial responsibility requirements (WAC 173-360A-1040).

(2) **Retention of records.** Records must be maintained for the period specified by the rules in effect at the time the records were created.

(3) **Availability of records.** Owners and operators must make all records required under subsection (1) of this section readily available for inspection upon request by the department.

(4) **Transfer of records.** Owners and operators must transfer all records required under subsection (1) of this section to new owners and operators.

(5) **Service providers.** Service providers must maintain records of their certification in accordance with WAC 173-360A-0940 (1)(b).

NEW SECTION**WAC 173-360A-0250 Compliance monitoring, investigation, and access.** (1) The department's compliance monitoring program, including procedures for inspections and recordkeeping, must be consistent with and no less stringent than the program required by 40 C.F.R. Sec. 281.40, as amended, and section 9005 of the Solid Waste Disposal Act (42 U.S.C. Sec. 6991d).

(2) If necessary to determine compliance with the requirements of this chapter or chapter 90.76 RCW, an authorized representative of the state engaged in compliance inspections, monitoring or testing may, by request, require an owner or operator to submit relevant information or documents. The department may subpoena witnesses, documents, and other relevant information that the department deems necessary. In the case of any refusal to obey the subpoena, the superior court for any county in which the person is found, resides, or transacts business has jurisdiction to issue an order requiring the person to appear before the department and give testimony or produce documents. Any failure to obey the order of the court may be punished by the court as contempt.

(3) Any authorized representative of the state may require an owner or operator to conduct monitoring or testing.

(4) Upon reasonable notice, an authorized representative of the state may enter a premises or UST facility subject to regulation under this chapter or in which records relevant to the operation of an UST system are kept. In the event of an emergency or in circumstances where notice would undermine the effectiveness of an inspection, notice is not required. The authorized representative may copy records, obtain samples of regulated substances, and inspect or conduct monitoring or testing of an UST system.

(5) Owners and operators of UST systems must cooperate fully with inspections, monitoring, and testing conducted by the department, as well as requests for document submission, testing, and monitoring by the owner or operator under this section.

(6) For purposes of this section, the term "authorized representative" or "authorized representative of the state" means an enforcement officer, employee, or representative of the department.

NEW SECTION**WAC 173-360A-0260 Information sharing.** The department's procedures for sharing information with the U.S. Environmental Protection Agency must be consistent with and no less stringent than those required by 40 C.F.R. Sec. 281.43, as amended.NEW SECTION**WAC 173-360A-0270 Enforcement.** (1) **Authority.** The director of the department of ecology may seek appropriate injunctive or other judicial relief by filing an action in

Thurston County superior court or issuing such order as the director deems appropriate to:

(a) Enjoin any threatened or continuing violation of this chapter or chapter 90.76 RCW;

(b) Restrain immediately and effectively a person from engaging in unauthorized activity that results in a violation of any requirement of this chapter or chapter 90.76 RCW and is endangering or causing damage to public health or the environment;

(c) Require compliance with requests for information, access, testing, or monitoring under WAC 173-360A-0250 or RCW 90.76.060;

(d) Prohibit the delivery, deposit, or acceptance of a regulated substance to an UST system identified by the department to be ineligible for such delivery, deposit, or acceptance in accordance with WAC 173-360A-0280 and chapter 90.76 RCW; or

(e) Assess and recover civil penalties authorized under WAC 173-360A-0290 and RCW 90.76.080.

(2) **Procedures.** The department's enforcement procedures must be consistent with and no less stringent than those required by 40 C.F.R. Sec. 281.41, as amended, and section 9012 of the Solid Waste Disposal Act (42 U.S.C. Sec. 6991k).

(3) **Appeals.** A person subject to an order issued under this chapter may appeal the order to the pollution control hearings board in accordance with RCW 43.21B.310.

(4) **Public participation.** The department's procedures for public participation in the state enforcement process must be consistent with and no less stringent than those required by 40 C.F.R. Sec. 281.42, as amended. The department will not oppose intervention of right under Superior Court Civil Rule 24 (a)(2) in a civil enforcement action taken under this chapter or chapter 90.76 RCW on the grounds that the person's interest is adequately represented by the state.

#### NEW SECTION

**WAC 173-360A-0280 Delivery prohibition.** (1) **Authority.** If the department determines the owners and operators of an UST system are violating any requirement of this chapter or chapter 90.76 RCW, the department may prohibit the delivery, deposit, or acceptance of regulated substances to the system or the entire UST facility where the system is located.

(2) **Procedures.** The department's procedures for enforcing delivery prohibition must be consistent with and no less stringent than those required by 40 C.F.R. Sec. 281.42, as amended, and section 9012 of the Solid Waste Disposal Act (42 U.S.C. Sec. 6991k).

(3) **Identification.** The department may identify an UST system subject to delivery prohibition by either:

(a) Affixing a red tag to the fill pipe of the system; or

(b) Revoking the facility compliance tag of the UST facility where the system is located.

(4) **Prohibition.** Without the prior written authorization of the department, product deliverers may not deliver or deposit, and owners and operators may not accept the delivery or deposit of, regulated substances into an UST system if:

(a) A red tag is attached to the fill pipe of the system; or

(b) A valid facility compliance tag is not properly displayed at the UST facility where the system is located.

(5) **Withdrawal of waste oil.** Without the prior written authorization of the department, persons may not withdraw, and owners and operators may not allow the withdrawal of, regulated substances from a waste oil UST system subject to delivery prohibition.

(6) **Unauthorized removal of red tags.** No person may remove or alter a red tag without the prior written authorization of the department. The unauthorized removal or alteration of a red tag constitutes a violation of this chapter.

#### NEW SECTION

**WAC 173-360A-0290 Civil penalties.** (1) A person who fails to notify the department pursuant to the notification requirements of this chapter, or who submits false information, is subject to a civil penalty not to exceed five thousand dollars per violation.

(2) A person who violates this chapter or chapter 90.76 RCW is subject to a civil penalty not to exceed five thousand dollars for each tank per day of violation.

(3) A person incurring a penalty under this chapter or chapter 90.76 RCW may apply to the department in writing for the remission or mitigation of the penalty as set out in RCW 43.21B.300. A person also may appeal a penalty directly to the pollution control hearings board in accordance with RCW 43.21B.300.

### PART 3

#### INSTALLATION AND PERFORMANCE STANDARDS

#### NEW SECTION

**WAC 173-360A-0300 Installation of UST systems and components.** Owners and operators must ensure UST systems and UST system components are installed in accordance with the requirements of this section.

(1) **Notice of intent to install an UST system or a tank or piping run.** When installing an entire UST system, or a tank or piping run that is part of an UST system, owners and operators must notify the department as specified in this subsection.

(a) Except for emergency replacements identified under (b) of this subsection, owners and operators must notify the department of planned installations at least thirty days, but no more than ninety days, before the planned start date using the applicable form provided by the department. Owners and operators must also confirm the planned start date at least three business days before starting installation.

(b) For emergency replacements, owners and operators must notify the department before starting the installation. A replacement constitutes an emergency if:

(i) There is a confirmed release from an operating UST system;

(ii) The UST system is located at an operating UST facility; and

(iii) The UST system is necessary for the normal operation of the facility.

(2) **Performance.** An UST system or UST system component must be installed:

(a) By or under the direct supervision of a service provider certified in accordance with Part 9 of this chapter; and

(b) In accordance with the manufacturer's instructions and a code of practice. The following codes of practice may be used to meet this requirement:

(i) American Petroleum Institute, Recommended Practice 1615, "Installation of Underground Petroleum Storage System";

(ii) National Fire Protection Association, Standard 30, "Flammable and Combustible Liquids Code," and Standard 30A, "Code for Motor Fuel Dispensing Facilities and Repair Garages";

(iii) Petroleum Equipment Institute, Recommended Practice 100, "Recommended Practices for Installation of Underground Liquid Storage Systems"; or

(iv) For previously deferred UST systems, military construction criteria, such as U.S. Department of Defense, Unified Facilities Criteria 3-460-01, "Design: Petroleum Fuel Facilities."

(3) **Standards.** The installed UST system or UST system component must meet the performance standards in WAC 173-360A-0310 or 173-360A-0340, as applicable.

(4) **Used tanks.** A used tank may not be installed as part of an UST system unless:

(a) The used tank meets the performance standards in WAC 173-360A-310(1) or 173-360A-340, as applicable;

(b) The used tank is recertified for use by the original manufacturer or its successor-in-interest; and

(c) Proof of recertification is included with the notice required under subsection (1) of this section.

#### **(5) Reporting.**

(a) **Installations of UST systems or tanks.** Installations of UST systems or tanks must be reported when applying for a license in accordance with WAC 173-360A-0200(3). The following documentation must be included as part of the application:

(i) Certification of installation, completed by the service provider;

(ii) Manufacturer's installation checklist, completed by the service provider;

(iii) If required under WAC 173-360A-0310 (3)(c), corrosion potential assessment report, completed by the corrosion expert; and

(iv) An as-built plan of the UST facility that:

(A) Shows the location of the UST systems (including all tanks, piping, and dispensers) and any adjacent structures or streets;

(B) Identifies and uses appropriate and consistent scales to show all required details in sufficient clarity; and

(C) Contains a title, legend of all symbols used, north arrow, and drafting or origination date.

#### **(b) Installations of other UST system components.**

Installations of other UST system components must be reported to the department within thirty days using the applicable checklist provided by the department. Service providers must complete the checklist.

(6) **Recordkeeping.** Records of installations completed after October 1, 2018, must be maintained until the UST system is permanently closed or undergoes a change-in-service.

## NEW SECTION

**WAC 173-360A-0310 Performance standards for new UST systems and components.** Except as provided under WAC 173-360A-0330, owners and operators must ensure new UST systems and UST system components meet the performance standards of this section.

(1) **Tanks.** To prevent releases due to structural failure or corrosion, tanks must meet the performance standards in this subsection.

(a) **Metal.** Tanks made of metal must be designed and constructed in accordance with the following:

(i) The compatibility requirements in WAC 173-360A-0350;

(ii) The cathodic protection requirements in subsection (3) of this section, if applicable;

(iii) The secondary containment requirements in subsection (4) of this section, if applicable; and

(iv) A code of practice. The following codes of practice may be used to meet this requirement:

(A) Steel Tank Institute, Specification STI-P3®, "Specification and Manual for External Corrosion Protection of Underground Steel Storage Tanks";

(B) Steel Tank Institute, Standard F841, "Standard for Dual Wall Underground Steel Storage Tanks";

(C) Underwriters Laboratories, Standard 1746, "Standard for External Corrosion Protection Systems for Steel Underground Storage Tanks";

(D) Underwriters Laboratories of Canada, Standard S603, "Standard for Steel Underground Tanks for Flammable and Combustible Liquids," Standard S603.1, "Standard for External Corrosion Protection Systems for Steel Underground Tanks for Flammable and Combustible Liquids," and Standard S631, "Standard for Isolating Bushings for Steel Underground Tanks Protected with External Corrosion Protection Systems"; or

(E) National Association of Corrosion Engineers International, Standard Practice 0285, "External Corrosion of Underground Storage Tank Systems by Cathodic Protection," and Underwriters Laboratories, Standard 58, "Standard for Steel Underground Tanks for Flammable and Combustible Liquids."

(b) **Clad or jacketed metal.** Tanks made of metal and clad or jacketed with a noncorrodible material must be designed and constructed in accordance with the following:

(i) The compatibility requirements in WAC 173-360A-0350;

(ii) The secondary containment requirements in subsection (4) of this section, if applicable; and

(iii) A code of practice. The following codes of practice may be used to meet this requirement:

(A) Underwriters Laboratories, Standard 1746, "External Corrosion Protection Systems for Steel Underground Storage Tanks";

(B) Steel Tank Institute, Specification F894, "ACT-100® Specification for External Corrosion Protection of FRP Composite Steel Underground Storage Tanks";

(C) Steel Tank Institute, Specification F961, "ACT-100U® Specification for External Corrosion Protection of Composite Steel Underground Storage Tanks"; or

(D) Steel Tank Institute, Specification F922, "Steel Tank Institute Specification for Permatank®."

(c) **Fiberglass-reinforced plastic.** Tanks made of fiberglass-reinforced plastic must be designed and constructed in accordance with the following:

(i) The compatibility requirements in WAC 173-360A-0350;

(ii) The secondary containment requirements in subsection (4) of this section, if applicable; and

(iii) A code of practice. The following codes of practice may be used to meet this requirement:

(A) Underwriters Laboratories, Standard 1316, "Glass-Fiber-Reinforced Plastic Underground Storage Tanks for Petroleum Products, Alcohols, and Alcohol-Gasoline Mixtures"; or

(B) Underwriters Laboratories of Canada, Standard S615, "Standard for Reinforced Plastic Underground Tanks for Flammable and Combustible Liquids."

(d) **Other materials.** Tanks made of materials other than those specified in (a) through (c) of this subsection must be designed and constructed in accordance with the following:

(i) The compatibility requirements in WAC 173-360A-0350;

(ii) The secondary containment requirements in subsection (4) of this section, if applicable; and

(iii) The tank construction and corrosion protection are determined by the department to prevent releases in a manner that is no less protective of human health and the environment than specified in (a) through (c) of this subsection.

(2) **Piping.** To prevent releases due to structural failure or corrosion, piping must meet the performance standards in this subsection.

(a) **Metal.** Piping made of metal must be designed and constructed in accordance with the following:

(i) The compatibility requirements in WAC 173-360A-0350;

(ii) The cathodic protection requirements in subsection (3) of this section, if applicable;

(iii) The secondary containment requirements in subsection (5) of this section, if applicable; and

(iv) A code of practice. The following codes of practice may be used to meet this requirement:

(A) American Petroleum Institute, Recommended Practice 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems";

(B) Underwriters Laboratories, Standard 971A, "Outline of Investigation for Metallic Underground Fuel Pipe";

(C) Steel Tank Institute, Recommended Practice R892, "Recommended Practice for Corrosion Protection of Underground Piping Networks Associated with Liquid Storage and Dispensing Systems";

(D) National Association of Corrosion Engineers International, Standard Practice 0169, "Control of External Corro-

sion on Underground or Submerged Metallic Piping Systems"; or

(E) National Association of Corrosion Engineers International, Standard Practice 0285, "External Corrosion Control of Underground Storage Tank Systems by Cathodic Protection."

(b) **Noncorrodible.** Piping made of a noncorrodible material must be designed and constructed in accordance with the following:

(i) The compatibility requirements in WAC 173-360A-0350;

(ii) The secondary containment requirements in subsection (5) of this section, if applicable; and

(iii) A code of practice. The following codes of practice may be used to meet this requirement:

(A) Underwriters Laboratories, Standard 971, "Nonmetallic Underground Piping for Flammable Liquids"; or

(B) Underwriters Laboratories of Canada, Standard S660, "Standard for Nonmetallic Underground Piping for Flammable and Combustible Liquids."

(c) **Other materials.** Piping made of materials other than those specified in (a) and (b) of this subsection must be designed and constructed in accordance with the following:

(i) The compatibility requirements in WAC 173-360A-0350;

(ii) The secondary containment requirements in subsection (5) of this section, if applicable; and

(iii) The piping construction and corrosion protection are determined by the department to prevent releases in a manner that is no less protective of human health and the environment than specified in (a) and (b) of this subsection.

### (3) Cathodic protection of metal tanks and piping.

(a) **Applicability.** The following tanks and piping must be cathodically protected in accordance with the requirements in (b) of this subsection unless the environment is determined not to be corrosive enough in accordance with the requirements in (c) of this subsection:

(i) Any portion of a metal tank that is underground and routinely contains regulated substances; and

(ii) Any metal piping that routinely contains regulated substances and is in contact with the ground.

(b) **Performance standards.** Metal tanks and piping must be cathodically protected as follows:

(i) The tank or piping must be coated with a suitable dielectric material;

(ii) The tank or piping must be equipped with a factory-installed or field-installed cathodic protection system designed by a corrosion expert; and

(iii) The cathodic protection system must be designed to allow for the operation and maintenance of the system as specified in WAC 173-360A-0430, including testing and rectifier inspections.

(c) **Noncorrosive environment.** Metal tanks and piping do not need to be cathodically protected if:

(i) Before installation and every five years thereafter:

(A) A corrosion expert assesses the environment around the UST system and determines that it is not corrosive enough to cause the system to have a release due to corrosion during its operational life;

(B) A report documenting the assessment, including the determination and its basis, and the person who performed the assessment, including their certification type and number, is completed by the corrosion expert; and

(C) The report is submitted as follows:

(I) For assessments performed before installation, the report is submitted to the department of revenue when applying for a license in accordance with WAC 173-360A-0200(3) and 173-360A-0300 (5)(a); and

(II) For assessments performed after installation, the report is submitted to the department of ecology within thirty days of completing the assessment; and

(ii) The owners and operators maintain records demonstrating compliance with the requirements of (c)(i) of this subsection, including the reports, until the UST system is permanently closed or undergoes a change-in-service.

**(4) Secondary containment of tanks.**

(a) **Applicability.** Tanks must be secondarily contained in accordance with the requirements in (b) of this subsection if:

(i) The tank is part of a hazardous substance UST system; or

(ii) The tank is part of a petroleum UST system, and the tank is installed or replaced after October 1, 2012.

(b) **Performance standards.** Tanks must be double-walled and designed and constructed to:

(i) Contain any regulated substances leaking from the primary space (through the inner wall) within the interstitial space until they are detected and removed;

(ii) Prevent the release of regulated substances into the environment throughout the operational life of the UST system; and

(iii) Allow for interstitial monitoring.

**(5) Secondary containment of piping.**

(a) **Applicability.** Piping must be secondarily contained in accordance with the requirements in (c) of this subsection unless:

(i) The piping is part of an airport hydrant system;

(ii) The piping is part of an UST system with field-constructed tanks greater than fifty thousand gallons;

(iii) The piping is part of a petroleum UST system, and the piping was installed or replaced on or before October 1, 2012;

(iv) The piping does not routinely contain regulated substances, including suction piping meeting the standards in WAC 173-360A-0600 (1)(b)(i) through (v); or

(v) The piping replaces less than fifty percent of a single-walled piping run.

(b) **Replacement.** Unless otherwise directed by the department, if fifty percent or more of a single-walled piping run is replaced after October 1, 2012, then the entire piping run must be replaced with double-walled piping meeting the requirements in (c) of this subsection.

(c) **Performance standards.** Piping must be double-walled. Containment sumps may also be used as part of the secondary containment and interstitial monitoring system for piping.

(i) **Piping.** Double-walled piping must be designed and constructed to:

(A) Contain any regulated substances leaking from the primary space (through the inner wall) within the piping's interstitial space or a containment sump until they are detected and removed;

(B) Prevent the release of regulated substances into the environment throughout the operational life of the UST system; and

(C) Allow for interstitial monitoring within either the piping's interstitial space or a containment sump.

(ii) **Containment sumps.** Containment sumps used as part of the secondary containment and interstitial monitoring system for piping must be designed and constructed to:

(A) Meet the compatibility requirements in WAC 173-360A-0350;

(B) Be liquid-tight on its sides, bottom, and at any penetrations;

(C) Allow for visual inspection and access to the components in the sump; and

(D) Allow for interstitial monitoring of the piping. The piping's interstitial space must be exposed within the sump. Sensors must be placed within the sump where they are able to detect any leak of regulated substances.

**(6) Under-dispenser containment.**

(a) **Applicability.** UST systems connected to a dispenser must be equipped with under-dispenser containment meeting the requirements in (b) of this subsection if the dispenser, dispenser system, or underground piping connected to the dispenser system is installed or replaced after October 1, 2012.

(b) **Performance standards.** Under-dispenser containment must be:

(i) Designed and constructed to:

(A) Meet the compatibility requirements in WAC 173-360A-0350;

(B) Be liquid-tight on its sides, bottom, and at any penetrations; and

(C) Allow for visual inspection and access to the components in the containment system; and

(ii) If installed or replaced after October 1, 2018, factory-built or machine-tooled, unless otherwise approved by the department.

**(7) Spill prevention equipment.**

(a) **Applicability.** To prevent spilling associated with product transfers, UST systems filled by transfers of more than twenty-five gallons at one time must be equipped with spill prevention equipment that:

(i) Meets the requirements in (b) of this subsection; or

(ii) Is determined by the department to be no less protective of human health and the environment.

(b) **Performance standards.** Spill prevention equipment must be designed and constructed to:

(i) Meet the compatibility requirements in WAC 173-360A-0350;

(ii) Prevent releases when the transfer hose is detached from the fill pipe; and

(iii) Be liquid-tight on its sides, bottom, and at any penetrations.

**(8) Overfill prevention equipment.**

(a) **Applicability.** To prevent overfilling associated with product transfers, UST systems filled by transfers of more than twenty-five gallons at one time must be equipped with overfill prevention equipment that:

- (i) Meets the requirements in (b) of this subsection; or
- (ii) Is determined by the department to be no less protective of human health and the environment.

(b) **Performance standards.** Overfill prevention equipment must be designed and constructed to:

(i) Meet the compatibility requirements in WAC 173-360A-0350; and

- (ii) Do one of the following:

(A) Automatically shut off flow into the tank when the tank is no more than ninety-five percent full;

(B) Automatically alert the product deliverer when the tank is no more than ninety percent full by restricting flow into the tank or triggering a high-level audible alarm; or

(C) Automatically restrict flow into the tank thirty minutes before overfilling, automatically alert the product deliverer with a high level audible alarm one minute before overfilling, or automatically shut off flow into the tank so that none of the fittings located on top of the tank are exposed to regulated substances due to overfilling.

(c) **Phase out of flow restrictors.** Flow restrictors used in vent lines may not be used to comply with the requirements of this subsection when overfill prevention equipment is installed, replaced, or repaired after October 1, 2018.

(9) **Release detection equipment.** Release detection equipment must meet the performance standards in Part 6 of this chapter.

(10) **Codes of practice for previously deferred UST systems.** For previously deferred UST systems, in addition to the codes of practice listed in this section, military construction criteria may be used to meet the requirements of this section, such as U.S. Department of Defense, Unified Facilities Criteria 3-460-01, "Design: Petroleum Fuel Facilities."

**NEW SECTION**

**WAC 173-360A-0320 Upgrade requirements for existing UST systems.** By December 22, 1998, owners and operators of existing UST systems were required to meet the performance standards for new UST systems in WAC 173-360A-0310 or the upgrade requirements in this section. Existing UST systems not meeting this requirement must be permanently closed in accordance with WAC 173-360A-0810 unless the tanks meet the requirements of this section and an upgrade is determined to be appropriate by the department. This section does not apply to previously deferred UST systems.

**(1) Administration.**

(a) The upgrades specified in this section must be performed by or under the direct supervision of a service provider certified in accordance with Part 9 of this chapter.

(b) The upgrades specified in this section must be reported to the department within thirty days using the applicable checklist provided by the department. The checklist must be completed by the service provider.

(c) Records of upgrades completed after October 1, 2018, must be maintained until the UST system is permanently closed or undergoes a change-in-service.

**(2) Upgrades.**

(a) **Corrosion protection of metal tanks.** Metal tanks must be upgraded to meet one of the following requirements in accordance with a code of practice:

(i) **Internal lining.** A tank may be upgraded by internal lining if:

(A) The lining is installed in accordance with WAC 173-360A-0490; and

(B) Within ten years after lining, and every five years thereafter, the lined tank is internally inspected in accordance with WAC 173-360A-0440 and found to be structurally sound with the lining still performing in accordance with original design specifications, unless cathodic protection is also installed within ten years of lining the tank, as specified in (a)(iii) of this subsection. If the internal lining is no longer performing in accordance with original design specifications and cannot be repaired in accordance with a code of practice, then the lined tank must be permanently closed in accordance with WAC 173-360A-0810.

(ii) **Cathodic protection.** A tank may be upgraded by cathodic protection if the cathodic protection system meets the requirements in WAC 173-360A-0310 (3)(b)(ii) and (iii) and the integrity of the tank is ensured using one of the following methods:

(A) The tank is internally inspected and assessed to ensure that the tank is structurally sound and free of corrosion holes before the cathodic protection system is installed;

(B) The tank has been installed or internally lined for less than ten years and is monitored monthly for releases in accordance with WAC 173-360A-0630 or 173-360A-0655 through 173-360A-0675;

(C) The tank has been installed or internally lined for less than ten years and is assessed for corrosion holes by conducting two tightness tests that meet the requirements in WAC 173-360A-0635. The first tightness test must be conducted before the cathodic protection system is installed. The second tightness test must be conducted between three and six months following the first operation of the cathodic protection system; or

(D) The tank is assessed for corrosion holes by a method that is determined by the department to prevent releases in a manner that is no less protective of human health and the environment than (a)(ii)(A) through (C) of this subsection.

(iii) **Internal lining combined with cathodic protection.** A tank may be upgraded by both internal lining and cathodic protection if:

(A) The lining is installed in accordance with WAC 173-360A-0490; and

(B) The cathodic protection system is installed within ten years of the tank being lined and meets the requirements in WAC 173-360A-0310 (3)(b)(ii) and (iii).

(b) **Corrosion protection of metal tanks - Codes of practice.** The following codes of practice may have been used to meet the requirements in (a) of this subsection:

(i) American Petroleum Institute, Standard 1631, "Recommended Practice for the Interior Lining of Existing Steel Underground Storage Tanks";

(ii) National Leak Prevention Association, Standard 631, "Spill Prevention, Minimum 10 Year Life Extension of Existing Steel Underground Tanks by Lining without the Addition of Cathodic Protection";

(iii) National Association of Corrosion Engineers, Recommended Practice 0285, "Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems";

(iv) American Petroleum Institute, Recommended Practice 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems"; or

(v) Steel Tank Institute, Publication F894-91, "Specifications for External Corrosion Protection FRP Composite Underground Steel Storage Tanks."

(c) **Corrosion protection of metal piping.** Metal piping routinely containing regulated substances and in contact with the ground must be cathodically protected in accordance with a code of practice and meet the requirements of WAC 173-360A-0310 (3)(b)(ii) and (iii). The codes of practice listed in WAC 173-360A-0310 (2)(a)(iv) may be used to meet this requirement.

(d) **Secondary containment of tanks and piping.** Tanks and piping that are part of a hazardous substance UST system must meet the secondary containment requirements in WAC 173-360A-0310 (4) and (5).

(e) **Spill and overfill prevention equipment.** UST systems filled by transfers of more than twenty-five gallons at one time must meet the spill and overfill prevention requirements in WAC 173-360A-0310 (7) and (8).

(f) **Release detection equipment.** Release detection equipment must meet the performance standards in Part 6 of this chapter.

(g) **Compatibility.** UST systems must meet the compatibility requirements in WAC 173-360A-0350.

## NEW SECTION

**WAC 173-360A-0330 Upgrade requirements for previously deferred UST systems.** By October 1, 2021, owners and operators must ensure previously deferred UST systems installed on or before October 1, 2018, meet the performance standards for new UST systems in WAC 173-360A-0310, meet the upgrade requirements in this section, or are permanently closed in accordance with WAC 173-360A-0810.

(1) **Administration.**

(a) The upgrades specified in this section must be performed by or under the direct supervision of a service provider certified in accordance with Part 9 of this chapter.

(b) The upgrades specified in this section must be reported to the department within thirty days using the applicable checklist provided by the department. The checklist must be completed by the service provider.

(c) Records of upgrades must be maintained until the UST system is permanently closed or undergoes a change-in-service.

(2) **Upgrades.**

(a) **Corrosion protection of tanks and piping.**

(i) Tanks and piping constructed of metal must be cathodically protected in accordance with a code of practice and meet the following requirements:

(A) The cathodic protection system must meet the requirements in WAC 173-360A-0310 (3)(b)(ii) and (iii); and

(B) Tanks more than ten years old must be assessed to ensure they are structurally sound and free of corrosion holes before a cathodic protection system is installed.

(ii) The following codes of practice may be used to meet the requirements in (a)(i) of this subsection:

(A) National Association of Corrosion Engineers International, Standard Practice 0285, "External Control of Underground Storage Tank Systems by Cathodic Protection";

(B) National Association of Corrosion Engineers International, Standard Practice 0169, "Control of External Corrosion on Underground or Submerged Metallic Piping Systems";

(C) National Leak Prevention Association, Standard 631, Chapter C, "Internal Inspection of Steel Tanks for Retrofit of Cathodic Protection"; or

(D) American Society for Testing and Materials, Standard G158, "Standard Guide for Three Methods of Assessing Buried Steel Tanks."

(b) **Spill and overfill prevention equipment.** UST systems filled by transfers of more than twenty-five gallons at one time must meet the spill and overfill prevention requirements in WAC 173-360A-0310 (7) and (8).

(c) **Release detection equipment.** Release detection equipment must meet the performance standards in Part 6 of this chapter.

(d) **Compatibility.** UST systems must meet the compatibility requirements in WAC 173-360A-0350.

## NEW SECTION

**WAC 173-360A-0340 Performance standards for partially exempt UST systems.** Owners and operators must ensure partially exempt UST systems identified in WAC 173-360A-0110 (2)(a)(i) through (iii) meet the performance standards of this section. This section does not apply to aboveground storage tanks associated with previously deferred UST systems and any partially exempt UST systems for which installation commenced on or before December 22, 1988.

(1) **Performance standards.** Partially exempt UST systems must:

(a) Prevent releases due to corrosion or structural failure for the operational life of the system;

(b) Be cathodically protected against corrosion, constructed of noncorrodible material, metal-clad with a noncorrodible material, determined by a corrosion expert to be located within a noncorrosive environment under WAC 173-360A-0310 (3)(c), or designed in a manner to prevent the release or threatened release of any regulated substance stored in the system; and

(c) Be constructed or lined with material that is compatible with the regulated substance stored in the system.

(2) **Guidance.** The performance standards in WAC 173-360A-0310 for new UST systems and the following codes of practice may be used as guidance for complying with this section:

(a) National Association of Corrosion Engineers International, Standard Practice 0285, "External Corrosion Control of Underground Storage Tank Systems by Cathodic Protection";

(b) National Association of Corrosion Engineers International, Standard Practice 0169, "Control of External Corrosion on Underground or Submerged Metallic Piping Systems";

(c) American Petroleum Institute, Recommended Practice 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems"; or

(d) Steel Tank Institute, Recommended Practice R892, "Recommended Practice for Corrosion Protection of Underground Piping Networks Associated with Liquid Storage and Dispensing Systems."

#### NEW SECTION

**WAC 173-360A-0350 Compatibility requirements for UST systems.** (1) **Performance standard for all UST systems.** Owners and operators must ensure that all UST system components are made of or lined with materials that are compatible with the regulated substances stored in the UST system.

(2) **Demonstrations for selected UST systems.** Owners and operators of UST systems storing hazardous substances, regulated substances containing greater than ten percent ethanol or twenty percent biodiesel, or any other regulated substances identified by the department must also comply with the requirements of this subsection.

(a) **Options.** Owners and operators must either:

(i) Demonstrate compatibility of the UST system (including tanks, piping, containment sums, pumping equipment, release detection equipment, spill prevention equipment, and overfill prevention equipment) by using one of the following options:

(A) Certification or listing of equipment or components by a nationally recognized, independent testing laboratory for use with the regulated substance stored; or

(B) Approval by the equipment or component manufacturer. The manufacturer's approval must be in writing, indicate an affirmative statement of compatibility, and specify the hazardous substances or range of biofuel blends with which the equipment or component is compatible; or

(ii) Use another option determined by the department to be no less protective of human health and the environment than the options specified in (a)(i) of this subsection.

(b) **Reporting.** When changing the regulated substance stored in an UST system, owners and operators must notify the department and report compliance with (a) of this subsection in accordance with WAC 173-360A-0410(1).

(c) **Recordkeeping.** Owners and operators must maintain all records documenting compliance with (a) of this subsection until the UST system is permanently closed or undergoes a change-in-service.

(3) **Guidance.** The following code of practice may be used as guidance for complying with this section: American Petroleum Institute, Recommended Practice 1626, "Storing and Handling Ethanol and Gasoline-Ethanol Blends at Distribution Terminals and Filling Stations."

## PART 4

### OPERATION AND MAINTENANCE

#### NEW SECTION

**WAC 173-360A-0400 Transfer of regulated substances—Owners and operators.** Owners and operators must ensure delivery of regulated substances to UST systems and withdrawal of regulated substances from waste oil UST systems are authorized and do not result in spills or overfills.

(1) **Authority to deliver or deposit.** Without the prior written authorization of the department, owners and operators may not accept the delivery or deposit of regulated substances into an UST system if:

(a) The owners and operators do not have a valid and current license to operate the UST system (WAC 173-360A-0200(1));

(b) A valid facility compliance tag is not properly displayed at the UST facility where the UST system is located (RCW 90.76.050(2) and WAC 173-360A-0220(1) and 173-360A-0280(4));

(c) A red tag is attached to the fill pipe of the UST system (RCW 90.76.050(2) and WAC 173-360A-0280(4)); or

(d) A release from the UST system has been confirmed and the system has not been repaired.

(2) **Authority to withdraw waste oil.** Without the prior written authorization of the department, owners and operators may not allow the withdrawal of regulated substances from a waste oil UST system if:

(a) The owners and operators do not have a valid and current license to operate the UST system (WAC 173-360A-0200(1));

(b) A valid facility compliance tag is not properly displayed at the UST facility where the UST system is located (WAC 173-360A-0220(1) and 173-360A-0280(5)); or

(c) A red tag is attached to the fill pipe of the UST system (WAC 173-360A-0280(5)).

(3) **Spill and overfill control.** To prevent spills and overfills during the transfer of regulated substances into an UST system, owners and operators must ensure that:

(a) Before the transfer, the volume available in a tank is greater than the volume of regulated substances to be transferred into the tank;

(b) During the transfer, the transfer operation is monitored constantly; and

(c) The transfer is performed in accordance with a code of practice. The following codes of practice may be used to meet this requirement:

(i) National Fire Protection Association, Standard 385, "Standard for Tank Vehicles for Flammable and Combustible Liquids";

(ii) American Petroleum Institute, Recommended Practice 1007, "Loading and Unloading of MC 306/DOT 406 Cargo Tank Motor Vehicles"; or

(iii) American Petroleum Institute, Recommended Practice 1621, "Bulk Liquid Stock Control at Retail Outlets."

(4) **Reporting spills and overfills.** Owners and operators must report, investigate, and clean up any spill or overfill

of regulated substances in accordance with WAC 173-360A-0740.

#### NEW SECTION

**WAC 173-360A-0405 Transfer of regulated substances—Product deliverers and waste oil collectors.** Product deliverers must ensure delivery of regulated substances to UST systems are authorized and do not result in spills or overfills. Waste oil collectors must ensure withdrawals of regulated substances from waste oil UST systems are authorized.

(1) **Authority to deliver or deposit.** Without the prior written authorization of the department, a product deliverer may not deliver or deposit regulated substances into an UST system if:

(a) A valid facility compliance tag is not properly displayed at the UST facility where the UST system is located (RCW 90.76.050(1) and WAC 173-360A-0220(1) and 173-360A-0280(4));

(b) A red tag is attached to the fill pipe of the UST system (RCW 90.76.050(1) and WAC 173-360A-0280(4)); or

(c) The product deliverer knows that a release from the UST system has been confirmed and the UST system has not been repaired, regardless of whether a facility compliance tag is properly displayed at the UST facility.

(2) **Authority to withdraw waste oil.** Without the prior written authorization of the department, persons may not withdraw regulated substances from a waste oil UST system if:

(a) A valid facility compliance tag is not properly displayed at the UST facility where the UST system is located (WAC 173-360A-0220(1) and 173-360A-0280(5)); or

(b) A red tag is attached to the fill pipe of the UST system (WAC 173-360A-0280(5)).

(3) **Spill and overfill control.** To prevent spills and overfills during the transfer of regulated substances into an UST system, product deliverers must comply with the requirements in WAC 173-360A-0400(3).

(4) **Reporting spills and overfills.** Product deliverers and waste oil collectors must report any spill or overfill of regulated substances, including into spill prevention equipment, immediately to the owner or operator.

#### NEW SECTION

**WAC 173-360A-0410 Changes in regulated substances.** Owners and operators must notify the department of any changes in the regulated substances stored in an UST system and document compatibility in accordance with the requirements of this section.

(1) When changing to a hazardous substance, a regulated substance containing greater than ten percent ethanol or twenty percent biodiesel, or any other regulated substance identified by the department, owners and operators must notify the department and report compliance with the compatibility requirements in WAC 173-360A-0350(2) at least thirty days before making the change using the applicable form provided by the department.

(2) When changing to any other regulated substance, owners and operators must notify the department within

thirty days after making the change using the applicable form provided by the department.

#### NEW SECTION

**WAC 173-360A-0420 Operation and maintenance walkthrough inspections.** Owners and operators must comply with the walkthrough inspection requirements of this section to ensure UST systems are properly operated and maintained.

(1) **Inspections.** Operation and maintenance walkthrough inspections must be performed in accordance with the following requirements or a code of practice that provides for comparable inspections. The following code of practice may be used to meet this requirement: Petroleum Equipment Institute, Recommended Practice 900, "Recommended Practices for the Inspection and Maintenance of UST Systems."

(a) **Thirty-day inspections.** Spill prevention equipment and release detection equipment must be inspected at least every thirty days. However, for UST systems receiving deliveries of regulated substances less frequently than every thirty days, spill prevention equipment only needs to be inspected prior to each delivery.

(i) **Spill prevention equipment.** Inspections of spill prevention equipment must include:

(A) Visually checking the spill prevention equipment for damage;

(B) Removing any liquid or debris from the spill prevention equipment;

(C) Checking for and removing obstructions in the fill pipe;

(D) Checking the fill cap to make sure it is securely on the fill pipe; and

(E) For double-walled spill prevention equipment with interstitial monitoring, checking for a leak in the interstitial area.

(ii) **Release detection equipment.** Inspections of release detection equipment must include:

(A) Checking to make sure the release detection equipment is operating with no alarms or other unusual operating conditions present; and

(B) Ensuring records of release detection testing are reviewed and current and the results are conclusive.

(b) **Annual inspections.** Containment sums and hand-held release detection equipment must be inspected at least annually.

(i) **Containment sums.** Inspections of containment sums must include:

(A) Visually checking the containment sums for damage, leaks to the containment area, or releases to the environment;

(B) Removing any liquid or debris from the containment sums; and

(C) For double-walled containment sums with interstitial monitoring, checking for a leak in the interstitial area; and

(ii) **Hand-held release detection equipment.** Inspections of hand-held release detection equipment must confirm the operability and serviceability of devices such as tank gauge sticks and groundwater bailers.

**(c) Additional inspections for airport hydrant systems.** For airport hydrant systems, hydrant pits and hydrant piping vaults must also be inspected at least every thirty days, if confined spaced entry is not required under 29 C.F.R. Part 1910 according to the Occupational Safety and Health Administration, or at least annually if confined spaced entry is required.

(i) **Hydrant pits.** Inspections of hydrant pits must include:

- (A) Visually checking for any damage;
- (B) Removing any liquid or debris; and
- (C) Checking for any leaks.

(ii) **Hydrant piping vaults.** Inspections of hydrant piping vaults must include checking for any hydrant piping leaks.

(2) **Repairs.** Any UST system component that is not operating properly must be repaired in accordance with WAC 173-360A-0490 or replaced in accordance with WAC 173-360A-0300.

(3) **Documentation.** Operation and maintenance walkthrough inspections must be documented in a checklist provided by the department or the code of practice used to perform the inspection. The following information must be included in the checklist:

- (a) A list of each UST system component inspected;
- (b) For each component inspected, whether the component needed action taken to correct an issue; and
- (c) For each component needing action taken to correct an issue, a description of the actions taken.

(4) **Recordkeeping.** Records of operation and maintenance walkthrough inspections must be maintained for at least three years. If spill prevention equipment is checked less frequently than every thirty days due to infrequent deliveries, delivery records must also be maintained in accordance with this requirement.

(5) **Compliance dates.** The operation and maintenance walkthrough inspections required in this section must begin by the following dates:

(a) For UST systems installed after October 1, 2018, upon installation; and

(b) For UST systems installed on or before October 1, 2018, by October 1, 2019.

## NEW SECTION

**WAC 173-360A-0430 Operation and maintenance of corrosion protection.** Owners and operators of UST systems with corrosion protection must comply with the requirements of this section to ensure the equipment is operating properly and will prevent releases to the environment due to corrosion until the UST system is permanently closed or undergoes a change-in-service.

(1) **Corrosion protection systems.** All corrosion protection systems must be operated and maintained to continuously provide corrosion protection to the metal components of that portion of the tank and piping that routinely contain regulated substances and are in contact with the ground.

(2) **Testing of cathodic protection systems.** Upon installation or repair, between one and six months after installation or repair, and every three years thereafter, cathodic

protection systems must be tested as follows to ensure they are operating properly.

(a) **Performance.** Cathodic protection tests must be performed:

(i) By or under the direct supervision of a service provider certified in accordance with Part 9 of this chapter; and

(ii) In accordance with a code of practice. The following codes of practice may be used to meet this requirement:

(A) National Association of Corrosion Engineers International, Test Method TM0101, "Measurement Techniques Related to Criteria for Cathodic Protection of Underground Storage Tank Systems";

(B) National Association of Corrosion Engineers International, Test Method TM0497, "Measurement Techniques Related to Criteria for Cathodic Protection on Underground or Submerged Metallic Piping Systems";

(C) Steel Tank Institute, Recommended Practice R051, "Cathodic Protection Testing Procedures for STI-P3R USTs";

(D) National Association of Corrosion Engineers International, Standard Practice 0285, "External Control of Underground Storage Tank Systems by Cathodic Protection"; or

(E) National Association of Corrosion Engineers International, Standard Practice 0169, "Control of External Corrosion on Underground or Submerged Metallic Piping Systems."

(b) **Repairs.** Cathodic protection systems that are not operating properly must be repaired in accordance with WAC 173-360A-0490 or replaced in accordance with WAC 173-360A-0300, as specified by a corrosion expert.

(c) **Reporting.** Cathodic protection tests must be reported to the department within thirty days using the applicable checklist provided by the department. The checklist must be completed by the service provider.

(d) **Recordkeeping.** Records of cathodic protection tests must be maintained for at least six years.

(3) **Inspections of impressed current cathodic protection systems.** At least every sixty days, impressed current cathodic protection systems must be inspected to ensure the rectifier is on and the equipment is operating properly.

(a) **Performance.** Rectifier inspections must include checking whether the rectifier is turned on and whether the voltage and amperage readings are within the ranges specified during the last cathodic protection test.

(b) **Repairs.** If a rectifier is not functioning or the voltage or amperage readings are not within the range specified for the cathodic protection system:

(i) A corrosion expert or cathodic protection tester must be notified within twenty-four hours; and

(ii) The cathodic protection system must be repaired in accordance with WAC 173-360A-0490 or replaced in accordance with WAC 173-360A-0300, as specified by a corrosion expert.

(c) **Documentation.** Rectifier inspections must be documented on the checklist provided by the department or on another record that includes the same information.

(d) **Recordkeeping.** Records of rectifier inspections must be maintained for at least three years.

NEW SECTION

**WAC 173-360A-0440 Operation and maintenance of internal linings.** Owners and operators of UST systems with internal linings used to meet the upgrade requirements in WAC 173-360A-0320 (2)(a)(i) must comply with the requirements of this section.

(1) **Inspections.** Within ten years after lining and every five years thereafter, lined tanks must be internally inspected to determine whether the tanks remain structurally sound and the linings are still performing in accordance with the original design specifications. Internal inspections must be performed:

(a) By or under the direct supervision of a service provider certified in accordance with Part 9 of this chapter; and

(b) In accordance with a code of practice. The following codes of practice may be used to meet this requirement:

(i) American Petroleum Institute, Recommended Practice 1631, "Interior Lining and Periodic Inspection of Underground Storage Tanks";

(ii) National Leak Prevention Association, Standard 631, Chapter B, "Future Internal Inspection Requirements for Lined Tanks"; or

(iii) Ken Wilcox Associates, Recommended Practice, "Recommended Practice for Inspecting Buried Lined Steel Tanks Using a Video Camera."

(2) **Repairs.**

(a) Following invasive internal inspections, tanks must be repaired and tightness tested in accordance with WAC 173-360A-0490.

(b) Lined tanks failing an internal inspection must be repaired and tightness tested in accordance with WAC 173-360A-0490. Lined tanks that cannot be repaired in accordance with a code of practice must be permanently closed in accordance with WAC 173-360A-0810.

(3) **Reporting.** Internal inspections of lined tanks must be reported to the department within thirty days using the applicable checklist provided by the department. The checklist must be completed by the service provider.

(4) **Recordkeeping.** Records of internal inspections of lined tanks must be maintained until the UST system is permanently closed or undergoes a change-in-service.

NEW SECTION

**WAC 173-360A-0450 Operation and maintenance of containment sumps used for interstitial monitoring of piping.** Owners and operators of UST systems with containment sumps used for interstitial monitoring of piping must comply with the requirements of this section and the walkthrough inspection requirements in WAC 173-360A-0420 to ensure the equipment is operating properly and will prevent releases to the environment.

(1) **Periodic monitoring or testing.** Containment sumps used for interstitial monitoring of piping must meet one of the following requirements:

(a) The containment sump is double-walled and the integrity of both walls is monitored at least annually as part of the walkthrough inspection in WAC 173-360A-0420 (1)(b)(i)(C). If monitoring is discontinued, the containment

sump must be tightness tested in accordance with (b) of this subsection within thirty days; or

(b) The containment sump is tightness tested at least every three years to ensure it is liquid tight. The tightness test must be performed:

(i) By or under the direct supervision of a service provider certified in accordance with Part 9 of this chapter; and

(ii) Using a vacuum, pressure, or liquid test (including a low level liquid test) performed in accordance with:

(A) The manufacturer's instructions;

(B) A code of practice. The following code of practice may be used to meet this requirement: Petroleum Equipment Institute, Recommended Practice 1200, "Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection and Secondary Containment Equipment at UST Facilities"; or

(C) Requirements determined by the department to be no less protective of human health and the environment.

(2) **Repairs.** Containment sumps that are not operating properly must be repaired in accordance with WAC 173-360A-0490 or replaced in accordance with WAC 173-360A-0300.

(3) **Reporting.** Tightness tests of containment sumps must be reported to the department within thirty days using the applicable checklist provided by the department. The checklist must be completed by the service provider.

(4) **Recordkeeping.**

(a) Records of periodic monitoring of containment sumps must be maintained for at least three years. The records must demonstrate that the sumps are double-walled and the integrity of both walls is periodically monitored.

(b) Records of tightness tests of containment sumps must be maintained for at least six years.

(5) **Compliance dates.** The periodic monitoring or tightness testing of containment sumps required under this section must begin by the following dates:

(a) For UST systems installed after October 1, 2018, upon installation; and

(b) For UST systems installed on or before October 1, 2018:

(i) If the UST facility has an even facility compliance tag identification number, by October 1, 2020; and

(ii) If the UST facility has an odd facility compliance tag identification number or does not have a facility compliance tag, by October 1, 2021.

NEW SECTION

**WAC 173-360A-0460 Operation and maintenance of spill prevention equipment.** Owners and operators of UST systems with spill prevention equipment must comply with the requirements of this section and the walkthrough inspection requirements in WAC 173-360A-0420 to ensure the equipment is operating properly and will prevent releases to the environment.

(1) **Periodic monitoring or testing.** Spill prevention equipment must meet one of the following requirements:

(a) The equipment is double-walled and the integrity of both walls is monitored at least every thirty days, or prior to delivery of regulated substances if less frequent, as part of the

walkthrough inspection in WAC 173-360A-0420 (1)(a)(i)(E). If monitoring is discontinued, the equipment must be tightness tested in accordance with (b) of this subsection within thirty days; or

(b) The equipment is tightness tested at least every three years. The tightness test must be performed:

(i) By or under the direct supervision of a service provider certified in accordance with Part 9 of this chapter; and

(ii) Using a vacuum, pressure, or liquid test performed in accordance with manufacturer's instructions or a code of practice. The following code of practice may be used to meet this requirement: Petroleum Equipment Institute, Recommended Practice 1200, "Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection and Secondary Containment Equipment at UST Facilities."

(2) **Repairs.** Spill prevention equipment that is not operating properly must be repaired in accordance with WAC 173-360A-0490 or replaced in accordance with WAC 173-360A-0300.

(3) **Reporting.** Tightness tests of spill prevention equipment must be reported to the department within thirty days using the applicable checklist provided by the department. The checklist must be completed by the service provider.

#### (4) **Recordkeeping.**

(a) Records of periodic monitoring of spill prevention equipment must be maintained for at least three years. The records must demonstrate that the equipment is double-walled and the integrity of both walls is periodically monitored.

(b) Records of tightness tests of spill prevention equipment must be maintained for at least six years.

(5) **Compliance dates.** The periodic monitoring or tightness testing of spill prevention equipment required under this section must begin by the following dates:

(a) For UST systems installed after October 1, 2018, upon installation; and

(b) For UST systems installed on or before October 1, 2018:

(i) If the UST facility has an even facility compliance tag identification number, by October 1, 2020; and

(ii) If the UST facility has an odd facility compliance tag identification number or does not have a facility compliance tag, by October 1, 2021.

### NEW SECTION

**WAC 173-360A-0470 Operation and maintenance of overfill prevention equipment.** Owners and operators of UST systems with overfill prevention equipment must comply with the requirements of this section to ensure the equipment is operating properly and will prevent releases to the environment.

(1) **Inspections.** Overfill prevention equipment must be inspected to verify functionality at least once every three years. At a minimum, the inspection must ensure that the equipment is set to activate at the applicable level specified in WAC 173-360A-0310(8) and will activate when regulated substances reach that level. Inspections must be performed:

(a) By or under the direct supervision of a service provider certified in accordance with Part 9 of this chapter; and

(b) In accordance with the manufacturer's instructions or a code of practice. The following code of practice may be used to meet this requirement: Petroleum Equipment Institute, Recommended Practice 1200, "Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection and Secondary Containment Equipment at UST Facilities."

(2) **Repairs.** Overfill prevention equipment that is not operating properly must be repaired in accordance with WAC 173-360A-0490 or replaced in accordance with WAC 173-360A-0300. Flow restrictors used in vent lines that are not operating properly must be replaced with another type of overfill prevention equipment (WAC 173-360A-0310 (8)(c)).

(3) **Reporting.** Overfill prevention equipment inspections must be reported to the department within thirty days using the applicable checklist provided by the department. The checklist must be completed by the service provider.

(4) **Recordkeeping.** Records of overfill prevention equipment inspections must be maintained for at least six years.

(5) **Compliance dates.** The inspections of overfill prevention equipment required under this section must begin by the following dates:

(a) For UST systems installed after October 1, 2018, upon installation; and

(b) For UST systems installed on or before October 1, 2018:

(i) If the UST facility has an even facility compliance tag identification number, by October 1, 2020; and

(ii) If the UST facility has an odd facility compliance tag identification number or does not have a facility compliance tag, by October 1, 2021.

### NEW SECTION

**WAC 173-360A-0480 Operation and maintenance of release detection equipment.** Owners and operators must operate and maintain release detection equipment in accordance with the requirements of this section and the walkthrough inspection requirements in WAC 173-360A-0420 to ensure the equipment is operating properly and will detect leaks from tanks and piping.

(1) **General.** Release detection equipment must be operated and maintained in accordance with the manufacturer's instructions or a code of practice. The following code of practice may be used to meet this requirement: Petroleum Equipment Institute, Recommended Practice 1200, "Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection and Secondary Containment Equipment at UST Facilities."

(2) **Testing.** Release detection equipment that is electronic or mechanical must be tested at least annually.

(a) **Performance.** Tests of release detection equipment must be performed:

(i) By or under the direct supervision of a service provider certified in accordance with Part 9 of this chapter; and

(ii) In accordance with the requirements in subsection (1) of this section.

(b) **Minimum.** Tests of release detection equipment must include the following, as applicable to the UST system:

(i) Automatic tank gauges and other controllers: Test proper operation of alarms, verify system configuration, and test battery backups;

(ii) Probes and sensors: Inspect for residual buildup, ensure floats move freely, ensure shafts are not damaged, ensure cables are free of kinks and breaks, and test alarm operability and communication with controller;

(iii) Automatic line leak detectors: Test operation to determine whether the detectors meet the performance standards in WAC 173-360A-0640 by simulating a leak from the entire piping run being monitored;

(iv) Vacuum pumps and pressure gauges: Ensure proper communication with sensors and controller; and

(v) Hand-held electronic sampling equipment associated with groundwater and vapor monitoring: Ensure proper operation.

(3) **Repairs.** Release detection equipment that is not operating properly must be recalibrated or otherwise repaired in accordance with WAC 173-360A-0490 or replaced in accordance with WAC 173-360A-0300.

(4) **Reporting.** Tests of release detection equipment must be reported to the department within thirty days using the applicable checklist provided by the department. The checklist must be completed by the service provider. The following must be documented in the checklist:

(a) List of each component tested;

(b) For each component tested, whether the component needed action to correct an issue; and

(c) For each component needing action to correct an issue, a description of the actions taken.

(5) **Recordkeeping.** Records of operation and maintenance of release detection equipment, including any tests required under this section, must be maintained for at least three years. Any schedules of required calibration and maintenance provided by the equipment manufacturer must be maintained for as long as the equipment is used.

(6) **Compliance dates.** The testing of automatic line leak detectors under subsection (2)(b)(iii) of this section has been required since December 29, 1990, and continues to be required. The testing of all other release detection equipment required under this section must begin by the following dates:

(a) For UST systems installed after October 1, 2018, upon installation; and

(b) For UST systems installed on or before October 1, 2018:

(i) If the UST facility has an even facility compliance tag identification number, by October 1, 2020; and

(ii) If the UST facility has an odd facility compliance tag identification number or does not have a facility compliance tag, by October 1, 2021.

## NEW SECTION

**WAC 173-360A-0490 Repairs of UST system components.** Owners and operators must ensure that UST system components that do not meet applicable performance standards or upgrade requirements or that are not operating properly are repaired or replaced. Owners and operators must

ensure that repairs are performed in accordance with the requirements of this section and will prevent releases due to structural failure or corrosion as long as the UST system is used to store regulated substances.

(1) **Performance of repairs.** Repairs must be performed:

(a) By or under the direct supervision of a service provider certified in accordance with Part 9 of this chapter; and

(b) In accordance with the manufacturer's instructions or a code of practice. The following codes of practice may be used to meet this requirement:

(i) National Fire Protection Association, Standard 30, "Flammable and Combustible Liquids Code";

(ii) American Petroleum Institute, Recommended Practice 2200, "Repairing Crude Oil, Liquified Petroleum Gas, and Product Pipelines";

(iii) American Petroleum Institute, Recommended Practice 1631, "Interior Lining and Periodic Inspection of Underground Storage Tanks";

(iv) National Fire Protection Association, Standard 326, "Standard for the Safeguarding of Tanks and Containers for Entry, Cleaning, or Repair";

(v) National Leak Prevention Association, Standard 631, Chapter A, "Entry, Cleaning, Interior Inspection, Repair, and Lining of Underground Storage Tanks";

(vi) Steel Tank Institute, Recommended Practice R972, "Recommended Practice for the Addition of Supplemental Anodes to STI-P3R Tanks";

(vii) National Association of Corrosion Engineers International, Standard Practice 0285, "External Control of Underground Storage Tank Systems by Cathodic Protection"; or

(viii) Fiberglass Tank and Pipe Institute, Recommended Practice T-95-02, "Remanufacturing of Fiberglass Reinforced Plastic (FRP) Underground Storage Tanks."

(2) **Standards for repairs.** Repaired UST system components must meet the applicable performance standards or upgrade requirements in Part 3 of this chapter.

(3) **Replacement of metal piping and fittings.** Metal piping and fittings that have released regulated substances due to corrosion or other damage must be replaced.

(4) **Tests and inspections after repairs.** Repaired UST system components must be tested or inspected after the repair as specified in this subsection.

(a) **Tanks and piping.** Repaired tanks and piping must be tightness tested as specified in WAC 173-360A-0635 and 173-360A-0650 within thirty days of the repair unless another test method is used that is determined by the department to be no less protective of human health and the environment. Except as provided under (b) of this subsection, cathodic protection systems of repaired tanks or piping must be tested as specified in WAC 173-360A-0430(2) within six months of the repair;

(b) **Cathodic protection systems.** Repaired cathodic protection systems must be tested as specified in WAC 173-360A-0430(2) at the time of the repair and between one and six months after the repair.

(c) **Secondary containment areas of tanks and piping.** Repaired secondary containment areas of tanks and piping

used for interstitial monitoring must be tightness tested as follows within thirty days of the repair.

(i) **Performance.** Tightness tests of secondary containment areas of tanks and piping must be performed:

(A) By or under the direct supervision of a service provider certified in accordance with Part 9 of this chapter; and

(B) In accordance with the manufacturer's instructions or a code of practice. The following codes of practice may be used to meet this requirement:

(I) Steel Tank Institute Recommended Practice R012, "Recommended Practice for Interstitial Tightness Testing of Existing Underground Double Wall Steel Tanks";

(II) Fiberglass Tank and Pipe Institute Protocol, "Field Test Protocol for Testing the Annular Space of Installed Underground Fiberglass Double and Triple-Wall Tanks with Dry Annular Space"; or

(III) Petroleum Equipment Institute, Recommended Practice 1200, "Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection and Secondary Containment Equipment at UST Facilities.

(ii) **Reporting.** Tightness tests of secondary containment areas of tanks and piping must be reported to the department within thirty days using the applicable checklist provided by the department. The checklist must be completed by the service provider.

(iii) **Recordkeeping.** Records of tightness tests of secondary containment areas of tanks and piping must be maintained for at least three years.

(d) **Containment sumps used for interstitial monitoring.** Repaired containment sumps used for interstitial monitoring of piping must be tightness tested as specified in WAC 173-360A-0450 within thirty days of the repair.

(e) **Spill prevention equipment.** Repaired spill prevention equipment must be tightness tested as specified in WAC 173-360A-0460 within thirty days of the repair.

(f) **Overfill prevention equipment.** Repaired overfill prevention equipment must be inspected as specified in WAC 173-360A-0470 within thirty days of the repair.

(g) **Release detection equipment.** Repaired electronic or mechanical release detection equipment must be tested as specified in WAC 173-360A-0480 within thirty days of the repair.

(5) **Reporting repairs.** Repairs must be reported to the department within thirty days using the applicable checklist provided by the department. The checklist must be completed by the service provider.

(6) **Recordkeeping.** Records of repairs must be maintained until the UST system is permanently closed or undergoes a change-in-service. Records of tests and inspections of repaired UST system components must be maintained in accordance with the applicable requirements of this chapter.

## PART 5

### OPERATOR TRAINING

#### NEW SECTION

**WAC 173-360A-0500 Purpose and applicability.** (1) This part establishes a mandatory operator training program

for three distinct classes of individuals who operate and maintain UST systems. The program is designed to prevent and mitigate releases from UST systems by ensuring that those individuals know how to properly operate and maintain those systems and respond to any spills, overfills, leaks, or releases from those systems.

(2) Owners and operators of an UST system must continuously comply with the requirements of this part from installation until permanent closure or change-in-service of the UST system, including during any period of temporary closure.

#### NEW SECTION

**WAC 173-360A-0510 Designation of Class A, Class B, and Class C operators.** UST system owners and operators must designate individuals as Class A, Class B, and Class C operators in accordance with the requirements of this section.

(1) At least one Class A and one Class B operator must be designated for each UST system or group of systems at a UST facility.

(2) Each individual who meets the definition of Class C operator at a UST facility must be designated as a Class C operator.

(3) Separate individuals may be designated for each operator class or an individual may be designated to more than one operator class.

#### NEW SECTION

**WAC 173-360A-0520 Timing of operator training.** UST system owners and operators must ensure that each Class A, Class B, and Class C operator is trained in accordance with the requirements in WAC 173-360A-0530 by the dates specified in this section.

(1) Class A and Class B operators must be trained within sixty days of assuming duties of the operator class.

(2) Class C operators must be trained before assuming duties of the operator class.

#### NEW SECTION

**WAC 173-360A-0530 Requirements for operator training.** UST system owners and operators must ensure that each Class A, Class B, and Class C operator is trained in accordance with the requirements of this section. Any individual designated for more than one operator class must successfully complete the training required for each operator class that the individual is designated. The training required under this section for Class A and Class B operators is the same.

(1) **Class A and Class B operators.** Each individual designated as a Class A and/or a Class B operator must successfully complete a classroom, computer, or field-based training program or examination that:

(a) Is developed and administered by the department, an UST system owner or operator approved by the department, or an independent third party approved by the department;

(b) Covers the following subject areas and associated requirements in this chapter. Training programs and examinations may be facility-specific:

- (i) Administrative requirements, including:
  - (A) Licensing and fees;
  - (B) Facility compliance tags;
  - (C) Authority to accept product delivery;
  - (D) Financial responsibility; and
  - (E) Reporting and recordkeeping;
- (ii) Certification and use of service providers;
- (iii) Compliance inspections and enforcement;
- (iv) Overview of UST systems and UST system components;
- (v) Product and equipment compatibility and demonstration;
- (vi) Installation and repair requirements;
- (vii) Spill and overfill prevention;
- (viii) Release detection;
- (ix) Corrosion protection and internal lining;
- (x) Secondary and under-dispenser containment;
- (xi) Operation and maintenance requirements, including inspections and testing;
- (xii) Release reporting and confirmation requirements;
- (xiii) Overview of site assessment requirements;
- (xiv) Overview of cleanup requirements for releases, including the applicability of chapter 173-340 WAC;
- (xv) Temporary closure, permanent closure, and change-in-service requirements;
- (xvi) Operator training requirements, including training of Class C operators; and
- (xvii) Any other subject areas specified by the department; and

(c) Includes an evaluation of operator knowledge, such as testing or practical examination, that reasonably determines whether the operator has the necessary knowledge and skills to meet the responsibilities of the class.

(2) **Class C operators.** Each Class C operator must successfully complete a classroom, computer, or field-based training program that:

(a) Is developed and administered by the department, a trained Class A or Class B operator, or an independent third party approved by the department;

(b) Provides training on how to respond to emergencies and alarms, including:

- (i) Locating emergency response equipment;
- (ii) Operating any emergency shut-off systems;
- (iii) Identifying and responding to any alarms; and
- (iv) Responding to and notifying appropriate authorities of any spills or releases; and

(c) Includes an evaluation of operator knowledge, such as testing or practical examination, that reasonably determines whether the operator has the necessary knowledge and skills to meet the responsibilities of the class.

(3) **Reciprocity for out-of-state training.** Class A and Class B operators previously designated in another state or at a tribal UST facility are deemed to meet the training requirements in subsection (1) of this section if:

(a) They successfully completed a training program or examination meeting the requirements of that state or 40 C.F.R. Part 280, as applicable; and

(b) They possess the training records required under WAC 173-360A-0560(2) and the records identify the state where they were designated and trained.

(4) **Acceptance of prior in-state training.** Except as provided under WAC 173-360A-0540, retraining is not required when the training requirements in this section are changed.

(5) **Revision of existing training programs and examinations for Class A and Class B operators.** Training programs and examinations for Class A and/or Class B operators approved by the department on or before October 1, 2018, must be revised to reflect the changes to the training requirements in subsection (1)(b) of this section. Revised training programs and examinations must be submitted to the department for approval by April 1, 2019. The department will approve or reject revised training programs and examinations, and provide written notice of its decision and reasons for any rejection.

#### NEW SECTION

**WAC 173-360A-0540 Retraining requirements for Class A and Class B operators.** UST system owners and operators must ensure that Class A and Class B operators are retrained, as applicable, in accordance with the requirements of this section.

(1) **Applicability.** If the department determines the owners and operators of an UST system are not in compliance with the requirements of this chapter, the department may require the Class A and Class B operators of that system to be retrained in accordance with subsection (2) of this section.

(2) **Requirements.** Within sixty days of receipt of the department's determination of noncompliance, Class A and Class B operators requiring retraining must successfully complete a training program or comparable examination meeting the requirements in WAC 173-360A-0530(1) and submit a copy of the certificate of completion to the department. At a minimum, the retraining must cover the areas determined to be out of compliance.

#### NEW SECTION

**WAC 173-360A-0545 Operation and maintenance plans.** UST system owners and operators must ensure that operation and maintenance plans are developed and maintained, as applicable, in accordance with the requirements of this section.

(1) **Applicability.** If the department determines the owners and operators of an UST system are not in compliance with the requirements of this chapter, the department may require the owners and operators to develop an operation and maintenance plan for each UST system at the UST facility where the noncompliant system is located. The department may require the development of such a plan in place of or in addition to any retraining of Class A or Class B operators required under WAC 173-360A-0540.

(2) **Development.** Operation and maintenance plans for UST systems must be developed and a copy submitted to the department within sixty days of receipt of the department's determination of noncompliance.

(3) **Updates.** The operation and maintenance plan for an UST system must be updated within sixty days of any modification of the system that changes how the system must be operated and maintained under this chapter.

(4) **Content.** At a minimum, the operation and maintenance plan for an UST system must include the actions required under this chapter to operate and maintain the system, including as applicable:

- (a) Release detection;
- (b) Spill and overfill prevention;
- (c) Corrosion protection;
- (d) Internal lining; and
- (e) Containment sumps.

(5) **Recordkeeping.** Operation and maintenance plans for UST systems must be maintained until the systems are permanently closed or undergo a change-in-service.

#### NEW SECTION

**WAC 173-360A-0550 Emergency response requirements.** (1) **Presence of operators.** While a UST facility is manned, UST system owners and operators must ensure at least one of the individuals manning the facility is a properly trained Class A, Class B, or Class C operator.

(2) **Signage.** At each UST facility, UST system owners and operators must post and maintain signage providing emergency response information. The signage must:

- (a) Be posted in prominent areas of the facility that are easily visible to individuals who dispense or deliver regulated substances;
- (b) Identify the location of fire extinguishers and any emergency shut-off devices at the facility; and
- (c) Provide instructions on what to do in case of an emergency at the facility. At a minimum, the instructions must include the following or equivalent wording:

(Name and address of facility)

IN CASE OF FIRE, SPILL OR RELEASE

(Insert if applicable: Use emergency shut off)

Call the fire department: (911 or local fire department telephone number)

Call the facility operator: (24-hour telephone number)

#### NEW SECTION

**WAC 173-360A-0560 Documentation and record-keeping.** UST system owners and operators must maintain records documenting all currently designated Class A, Class B, and Class C operators at a UST facility and the training received by those operators.

(1) **Designated operators.** Records documenting Class A, Class B, and Class C operators at a UST facility must include the following information:

- (a) The facility's name, address, and compliance tag number; and
- (b) For each individual designated at the facility:
  - (i) The name of the individual;
  - (ii) The UST systems and operator classes to which the individual has been designated;
  - (iii) The date the individual assumed the duties of each operator class; and

(iv) The date the individual completed initial training and any required retraining for each operator class.

(2) **Training of designated operators.** Records documenting the initial training and any required retraining of Class A, Class B, and Class C operators must include a certificate of completion. Certificates must include the following information:

- (a) The name of the trainee;
- (b) The date the trainee completed the training;
- (c) The operator class or classes covered by the training;
- (d) The name of the company providing the training; and
- (e) For classroom and field-based training, the printed name and signature of the trainer or examiner.

## PART 6

### RELEASE DETECTION

#### NEW SECTION

**WAC 173-360A-0600 General release detection requirements.** Owners and operators must monitor tanks and underground piping for leaks in accordance with the requirements of this part. This section specifies general release detection requirements. WAC 173-360A-0610 and 173-360A-0615 identify allowed release detection methods for monitoring tanks and piping. WAC 173-360A-0620 through 173-360A-0675 specify requirements for each release detection method.

(1) **Applicability.** The following tanks and underground piping must be monitored for leaks in accordance with this part:

- (a) Any portion of a tank that routinely contains regulated substances; and
- (b) Any underground piping that routinely contains regulated substances. However, underground piping conveying regulated substances under suction does not need to be monitored for leaks if the piping is designed and constructed to meet the following standards:

(i) The below-grade piping operates at less than atmospheric pressure;

(ii) The below-grade piping is sloped so that the contents of the pipe will drain back into the storage tank if the suction is released;

(iii) Only one check valve is included in each suction line;

(iv) The check valve is located directly below and as close as practical to the suction pump; and

(v) A method is provided that allows compliance with (b)(i) through (iv) of this subsection to be readily determined.

(2) **Closure of UST systems.** Any UST system that cannot be monitored for leaks in accordance with the requirements of this part must be closed in accordance with Part 8 of this chapter.

(3) **Release detection methods.** Tanks and underground piping must be monitored for leaks using one of the applicable methods, or combination of methods, of release detection specified in WAC 173-360A-0610 and 173-360A-0615. Results from periodic release detection must be conclusive.

**(4) Notification of changes in methods.** Within thirty days after any change in release detection methods used, owners and operators must notify the department in writing.

**(5) Performance standards for methods.** Release detection methods must be able to meet:

(a) The performance standards specified for the method in this part, with any performance claims and their manner of determination described in writing by the manufacturer, vendor, or installer; and

(b) The compatibility requirements in WAC 173-360A-0350.

**(6) Certification of methods or equipment.** Except for inventory control (WAC 173-360A-0620) and weekly manual tank gauging (WAC 173-360A-0625), the methods or equipment used to perform release detection must be certified in writing by the manufacturer or vendor or an independent third party as capable of meeting the performance standards specified for the release detection method in this part using a test procedure:

(a) Developed by the U.S. Environmental Protection Agency;

(b) Developed by a nationally or internationally recognized association or independent testing laboratory; or

(c) Deemed equivalent by a nationally or internationally recognized association or independent testing laboratory to a test procedure developed by the U.S. Environmental Protection Agency.

**(7) Performance of release detection.** Release detection must be performed in accordance with:

(a) Any requirements specified for the method in this part;

(b) Any instructions specified by the equipment manufacturer; and

(c) Any conditions or limitations specified in the certifications required under subsection (6) of this section, if applicable.

**(8) Suspected releases.** When the results of release detection under this part indicate a release may have occurred, the suspected release must be reported and investigated in accordance with Part 7 of this chapter. The establishment of leak indication thresholds is a means of setting a standard for the equipment or method used. It is not intended to imply that actual leak rates or quantities less than the thresholds are allowable. No release is acceptable, and any indication that a release may have occurred should be reported and investigated in accordance with Part 7 of this chapter.

**(9) Recordkeeping.** Records of release detection must document compliance with this part, including the following:

(a) Any certifications of release detection methods or equipment required under this part. Certifications must be maintained for as long as the method or equipment is used;

(b) Any site evaluations required under WAC 173-360A-0660 or 173-360A-0665 for using vapor monitoring or groundwater monitoring as a release detection method. Site evaluations must be maintained for as long as the method is used; and

(c) The performance of release detection required under this part, including the results of all monitoring, testing, and sampling.

(i) For tank tightness testing (WAC 173-360A-0635), line tightness testing (WAC 173-360A-0650), and vapor monitoring using a tracer compound in accordance with WAC 173-360A-0610 (3)(d) or 173-360A-0615 (3)(b), at least the last two test results must be maintained.

(ii) For all other release detection methods, results must be maintained for at least three years.

## NEW SECTION

**WAC 173-360A-0610 Release detection methods for tanks.** Owners and operators must monitor tanks for leaks using the methods, or combination of methods, of release detection specified in this section.

**(1) Tanks requiring secondary containment.** Tanks requiring secondary containment under WAC 173-360A-0310 (4)(a) must be monitored for leaks at least every thirty days using interstitial monitoring (WAC 173-360A-0655).

**(2) Tanks not requiring secondary containment.** Except as provided for previously deferred UST systems under subsection (3) of this section, tanks not requiring secondary containment under WAC 173-360A-0310 (4)(a) must be monitored for leaks at least every thirty days (except as otherwise provided) using one of the following methods, or combination of methods, of release detection:

(a) Combination of inventory control (WAC 173-360A-0620) and tank tightness testing (WAC 173-360A-0635). Tank tightness testing must be performed at least every five years. This combination of methods may be used only if the tank has been installed for less than ten years;

(b) Combination of weekly manual tank gauging (WAC 173-360A-0625) and tank tightness testing (WAC 173-360A-0635). Tank tightness testing must be performed at least every five years. This combination of methods may be used only if:

(i) The tank has been installed for less than ten years; and

(ii) The tank's capacity is less than or equal to two thousand gallons;

(c) Weekly manual tank gauging (WAC 173-360A-0625). This method may be used as the sole method of release detection only if:

(i) The tank's capacity is less than or equal to five hundred fifty gallons; or

(ii) The tank's capacity is five hundred fifty-one gallons to one thousand gallons and the tank's diameter is either sixty-four inches or forty-eight inches;

(d) Automatic tank gauging (WAC 173-360A-0630);

(e) Interstitial monitoring (WAC 173-360A-0655). This method may be used only if the tank is secondarily contained and meets the performance standards in WAC 173-360A-0310 (4)(b);

(f) Vapor monitoring (WAC 173-360A-0660);

(g) Groundwater monitoring (WAC 173-360A-0665);

(h) Statistical inventory reconciliation (WAC 173-360A-0670); or

(i) Other release detection methods (WAC 173-360A-0675).

**(3) Additional methods for certain previously deferred UST systems.** Field-constructed tanks not requiring secondary containment under WAC 173-360A-0310

(4)(a) with a capacity greater than fifty thousand gallons must be monitored for leaks in accordance with subsection (2) of this section or using one of the following methods, or combination of methods, of release detection:

(a) Tank tightness testing (WAC 173-360A-0635) performed at least annually, except the method must be able to detect a 0.5 gallon per hour leak rate;

(b) Combination of automatic tank gauging (WAC 173-360A-0630) performed at least every thirty days, except the method must be able to detect a one gallon per hour leak rate, and tank tightness testing (WAC 173-360A-0635) performed at least every three years, except the method must be able to detect a 0.2 gallon per hour leak rate;

(c) Combination of automatic tank gauging (WAC 173-360A-0630) performed at least every thirty days, except the method must be able to detect a two gallons per hour leak rate, and tank tightness testing (WAC 173-360A-0635) performed at least every two years, except the method must be able to detect a 0.2 gallon per hour leak rate;

(d) Vapor monitoring (WAC 173-360A-0660) performed at least every two years, except the method must use a tracer compound and be able to detect a 0.1 gallon per hour leak rate;

(e) Combination of inventory control (WAC 173-360A-0620) performed at least every thirty days, except the method must be able to detect a leak of at least 0.5 percent of flow-through and be performed in accordance with Department of Defense Instruction 4140.25, Air Transport Association Airport Fuel Facility Operations and Maintenance Guidance Manual, or equivalent procedures, and either:

(i) Tank tightness testing (WAC 173-360A-0635) performed at least every two years, except the method must be able to detect a 0.5 gallon per hour leak rate;

(ii) Vapor monitoring (WAC 173-360A-0660) performed at least every thirty days; or

(iii) Groundwater monitoring (WAC 173-360A-0665) performed at least every thirty days; or

(f) Other release detection methods (WAC 173-360A-0675), except owners and operators must demonstrate the method can detect a leak as effectively as any of the methods allowed in (a) through (e) of this subsection and the department must approve the use of the method. In comparing methods, the department will consider the size of release that can be detected and the frequency and reliability of detection.

## NEW SECTION

**WAC 173-360A-0615 Release detection methods for piping.** Owners and operators must monitor underground piping for leaks using the methods, or combination of methods, of release detection specified in this section.

(1) **Piping requiring secondary containment.** Underground piping requiring secondary containment under WAC 173-360A-0310 (5)(a) must be monitored for leaks as follows.

(a) **Pressurized piping.** Underground piping conveying regulated substances under pressure must be equipped with an automatic line leak detector (WAC 173-360A-0640) and monitored for leaks at least every thirty days using interstitial monitoring (WAC 173-360A-0655).

(b) **Suction piping.** Underground piping conveying regulated substances under suction, except as provided under WAC 173-360A-0600 (1)(b), must be monitored for leaks at least every thirty days using interstitial monitoring (WAC 173-360A-0655).

(2) **Piping not requiring secondary containment.** Except as provided for previously deferred UST systems under subsection (3) of this section, underground piping not requiring secondary containment under WAC 173-360A-0310 (5)(a) must be monitored for leaks as follows.

(a) **Pressurized piping.** Underground piping conveying regulated substances under pressure must be:

(i) Equipped with an automatic line leak detector (WAC 173-360A-0640); and

(ii) Monitored for leaks at least annually using line tightness testing (WAC 173-360A-0650) or every thirty days using one of the following methods, or combination of methods, of release detection:

(A) Monthly automatic electronic line leak detection (WAC 173-360A-0645);

(B) Interstitial monitoring (WAC 173-360A-0655). This method may be used only if the piping is secondarily contained and meets the performance standards in WAC 173-360A-0310 (5)(c);

(C) Vapor monitoring (WAC 173-360A-0660);

(D) Groundwater monitoring (WAC 173-360A-0665);

(E) Statistical inventory reconciliation (WAC 173-360A-0670); or

(F) Other release detection methods (WAC 173-360A-0675).

(b) **Suction piping.** Underground piping conveying regulated substances under suction, except as provided under WAC 173-360A-0600 (1)(b), must be monitored for leaks at least every three years using line tightness testing (WAC 173-360A-0650) or at least every thirty days using one of the following methods of release detection:

(i) Interstitial monitoring (WAC 173-360A-0655). This method may be used only if the piping is secondarily contained and meets the performance standards in WAC 173-360A-0310 (5)(c);

(ii) Vapor monitoring (WAC 173-360A-0660);

(iii) Groundwater monitoring (WAC 173-360A-0665);

(iv) Statistical inventory reconciliation (WAC 173-360A-0670); or

(v) Other release detection methods (WAC 173-360A-0675).

(3) **Additional methods for certain previously deferred UST systems.** Underground piping not requiring secondary containment under WAC 173-360A-0310 (5)(a) associated with field-constructed tanks with a capacity greater than fifty thousand gallons or airport hydrant systems must be monitored for leaks in accordance with subsection (2) of this section or using one of the following methods, or combination of methods, of release detection:

(a) Line tightness testing (WAC 173-360A-0650) performed semiannually or annually, except the method must be able to detect the leak rate specified in Table 0615-1. Piping segment volumes greater than or equal to one hundred thousand gallons not capable of meeting the maximum 3.0 gallon per hour leak rate for the semiannual test may be tested at a

leak rate up to 6.0 gallons per hour according to the schedule in Table 0615-2;

**Table 0615-1: Maximum Leak Detection Rate per Test Section Volume**

Test Section Volume (Gallons)	Semiannual Test - Leak Detection Rate Not To Exceed (Gallons Per Hour)	Annual Test - Leak Detection Rate Not To Exceed (Gallons Per Hour)
< 50,000	1.0	0.5
≥ 50,000 to < 75,000	1.5	0.75
≥ 75,000 to < 100,000	2.0	1.0
≥ 100,000	3.0	1.5

**Table 0615-2: Phase-In for Piping Segments ≥ 100,000 Gallons in Volume**

Test	Time Frame	Leak Detection Rate
First test	Not later than October 1, 2021	May use up to 6.0 gallons per hour leak rate
Second test	Between October 1, 2021, and October 1, 2024	May use up to 6.0 gallons per hour leak rate
Third test	Between October 1, 2024, and October 1, 2025	Must use 3.0 gallons per hour leak rate
Subsequent tests	After October 1, 2025	Begin using semiannual or annual line testing according to Table 0615-1

(b) Vapor monitoring (WAC 173-360A-0660) performed at least every two years, except the method must use a tracer compound and be able to detect a 0.1 gallon per hour leak rate;

(c) Combination of inventory control (WAC 173-360A-0620) performed at least every thirty days, except the method must be able to detect a leak of at least 0.5 percent of flow-through and be performed in accordance with Department of Defense Instruction 4140.25, Air Transport Association Airport Fuel Facility Operations and Maintenance Guidance Manual, or equivalent procedures, and either:

(i) Line tightness testing (WAC 173-360A-0650) performed at least every two years, except the method must be performed in accordance with (a) of this subsection using the leak rates for the semiannual test in Table 0615-1;

(ii) Vapor monitoring (WAC 173-360A-0660) performed at least every thirty days; or

(iii) Groundwater monitoring (WAC 173-360A-0665) performed at least every thirty days; or

(d) Other release detection methods (WAC 173-360A-0675), except owners and operators must demonstrate the method can detect a leak as effectively as any of the methods allowed in (a) through (c) of this subsection and the department must approve the use of the method. In comparing methods, the department will consider the size of release that can be detected and the frequency and reliability of detection.

## NEW SECTION

**WAC 173-360A-0620 Inventory control.** Owners and operators using inventory control (or another test of equivalent performance) must comply with the requirements of this section.

**(1) Standards.**

(a) Inventory control must be performed in a manner that is able to detect leaks of at least one percent of the monthly flow-through plus one hundred thirty gallons.

(b) Inventory control must be performed using a gauge stick or an automatic tank gauge system that is able to measure the following:

(i) Tank liquid levels over the full range of the tank's height to the nearest one-eighth of an inch; and

(ii) Water levels in the bottom of the tank to the nearest one-eighth of an inch.

(c) Dispensing meters must be calibrated to local standards or an accuracy of at least six cubic inches for every five gallons of regulated substances that is withdrawn.

(d) The fill pipe through which regulated substances are delivered into the tank must have a drop tube that extends to within one foot of the bottom of the tank.

**(2) Performance.** Inventory control must be performed in accordance with the requirements of this subsection. Automatic tank gauge systems must be operated in accordance with the manufacturer's instructions. The following code of practice may be used, where applicable, as guidance in meeting the requirements of this subsection: American Petroleum Institute, Recommended Practice 1621, "Bulk Liquid Stock Control at Retail Outlets."

(a) Each day regulated substances are removed from or added to the tank, the following inventory volume measurements and calculations must be performed:

(i) Measure the number of gallons of regulated substances removed from the tank within the local standards for meter calibration or an accuracy of at least six cubic inches for every five gallons of regulated substances that is withdrawn;

(ii) Measure the tank liquid level to the nearest one-eighth of an inch before and after any delivery of regulated substances, convert the two measurements into gallons, calculate the difference between the two measurements, and reconcile the change in inventory volume with delivery receipts;

(iii) Measure the tank liquid level at the end of the day (ending inventory) to the nearest one-eighth of an inch and convert the measurement into gallons. The measurement taken after a delivery of regulated substances may be used to meet this requirement;

(iv) Calculate the book inventory by adding the starting inventory and the number of gallons delivered and then subtracting the number of gallons dispensed; and

(v) Calculate the daily inventory imbalance (overage or shortage) by subtracting the book inventory from the ending inventory.

(b) At least once each month, the level of any water in the tank must be measured to the nearest one-eighth of an inch.

(c) At the end of each monitoring period, calculate the monthly imbalance (overage or shortage) by adding together all of the daily imbalances.

**(3) Suspected release.** A release is suspected based on inventory control if:

(a) The monthly inventory imbalance is greater than one percent of the monthly flow-through plus one hundred thirty gallons; or

(b) The presence of water in the tank is unexplained.

#### NEW SECTION

##### **WAC 173-360A-0625 Weekly manual tank gauging.**

Owners and operators using weekly manual tank gauging must comply with the requirements of this section.

###### **(1) Standards.**

(a) Weekly manual tank gauging must be performed in a manner that is able to detect any leaks greater than the applicable test standards in Table 0625-1 with a probability of detection of at least 0.95 and a probability of false alarm of no more than 0.05.

(b) Weekly manual tank gauging must be performed using a gauge stick or an automatic tank gauge system that is able to measure the following:

(i) Tank liquid levels over the full range of the tank's height to the nearest one-eighth of an inch; and

(ii) Water levels in the bottom of the tank to the nearest one-eighth of an inch.

(2) **Performance.** Weekly manual tank gauging must be performed in accordance with the requirements of this subsection. Automatic tank gauge systems must be operated in accordance with the manufacturer's instructions.

(a) Each week, the following inventory volume measurements and calculations must be performed:

(i) Select a period that is at least as long as the applicable minimum test duration specified in Table 0625-1. During this period, no liquid may be added or removed from the tank;

(ii) Take two consecutive tank liquid level measurements to the nearest one-eighth of an inch at the beginning and at the end of the selected period;

(iii) Calculate the average of the two beginning measurements and the average of the two ending measurements and convert the averages from inches to gallons;

(iv) Calculate the change in volume by subtracting the average ending measurement from the average beginning measurement; and

(v) Compare the change in volume to the applicable weekly standard in Table 0625-1.

(b) Each month, calculate the monthly change in volume by adding together the four weekly changes in volume and compare to the applicable monthly standard in Table 0625-1.

(c) At least once each month, the level of any water in the tank must be measured to the nearest one-eighth of an inch.

(3) **Suspected release.** A release is suspected based on weekly manual tank gauging if:

(a) Any weekly change in volume is greater than the applicable weekly standard in Table 0625-1;

(b) Any monthly change in volume is greater than the applicable monthly standard in Table 0625-1; or

(c) The presence of water in the tank is unexplained.

**Table 0625-1: Weekly Manual Tank Gauging Criteria**

Nominal Tank Capacity	Minimum Test Duration	Weekly Standard (one test)	Monthly Standard (four test average)
550 gallons or less	36 hours	10 gallons	5 gallons
551 - 1,000 gallons (when tank diameter is 64 inches)	44 hours	9 gallons	4 gallons
551 - 1,000 gallons (when tank diameter is 48 inches)	58 hours	12 gallons	6 gallons
551 - 1,000 gallons (when tank diameter other than 64 or 48 inches)	36 hours	13 gallons	7 gallons
1,001 - 2,000 gallons	36 hours	26 gallons	13 gallons

#### NEW SECTION

##### **WAC 173-360A-0630 Automatic tank gauging.** Owners and operators using automatic tank gauging must comply with the requirements of this section.

(1) **Standards.** For the purposes of this method, automatic tank gauge systems must be able to:

(a) Detect at least a 0.2 gallon per hour leak rate from any portion of the tank that routinely contains a regulated substance with a probability of detection of at least 0.95 and a probability of false alarm of no more than 0.05;

(b) Measure tank liquid levels over the full range of the tank's height; and

(c) Measure water levels in the bottom of the tank.

(2) **Performance.** Leak detection tests must be performed in accordance with the manufacturer's instructions and any conditions or limitations specified in the certification of the equipment. Tests must be performed with automatic tank gauge systems operating in one of the following modes:

(a) **In-tank static test mode.** In this mode, testing must be performed at least once every thirty days; or

(b) **Continuous in-tank leak detection mode.** In this mode, automatic tank gauge systems must operate on an uninterrupted basis or operate within a process that allows the system to gather incremental measurements to determine the leak status of the tank at least once every thirty days.

#### NEW SECTION

##### **WAC 173-360A-0635 Tank tightness testing.** Owners and operators using tank tightness tests must comply with the requirements of this section.

(1) **Standards.** Tank tightness tests must be able to detect at least a 0.1 gallon per hour leak rate from any portion of the tank up to the ninety-five percent full level or up to the product level limited by overfill prevention equipment while accounting for the effects of thermal expansion or contraction of the regulated substance, vapor pockets, tank deformation, evaporation or condensation, and the location of the water table. The tests must be able to detect the specified leak rate with a probability of detection of at least 0.95 and a probability of false alarm of no more than 0.05.

(2) **Performance.** Tank tightness tests must be performed:

(a) By or under the direct supervision of a service provider certified in accordance with Part 9 of this chapter; and

(b) In accordance with the manufacturer's instructions and any conditions or limitations specified in the certification of the method or equipment.

(3) **Reporting.** Tank tightness tests must be reported to the department within thirty days using the applicable checklist provided by the department. The checklist must be completed by the service provider.

#### NEW SECTION

##### **WAC 173-360A-0640 Automatic line leak detectors.**

Owners and operators must equip pressurized piping with automatic line leak detectors meeting the requirements of this section.

(1) **Standards.** For the purposes of this method, automatic line leak detectors must be able to:

(a) Detect a leak rate of at least three gallons per hour at ten pounds per square inch line pressure within one hour from any portion of the piping that routinely contains a regulated substance with a probability of detection of at least 0.95 and a probability of false alarm of no more than 0.05; and

(b) If a leak is detected, alert the operator by shutting off or restricting the flow of regulated substances or triggering an audible or visual alarm.

(2) **Performance.** Automatic line leak detectors must be operated in accordance with the manufacturer's instructions and any conditions or limitations specified in the certification of the equipment.

#### NEW SECTION

##### **WAC 173-360A-0645 Monthly automatic electronic**

**line leak detection.** Owners and operators using monthly automatic electronic line leak detection must comply with the requirements of this section.

(1) **Standards.** For the purposes of this method, automatic electronic line leak detectors must be able to detect a leak rate of at least 0.2 gallons per hour at operating pressure from any portion of the piping that routinely contains a regulated substance with a probability of detection of at least 0.95 and a probability of false alarm of no more than 0.05.

(2) **Performance.** Automatic electronic line leak detection tests must be performed in accordance with the manufacturer's instructions and any conditions or limitations specified in the certification of the equipment.

#### NEW SECTION

##### **WAC 173-360A-0650 Line tightness testing.**

Owners and operators using line tightness tests must comply with the requirements of this section.

(1) **Standards.** Line tightness tests must be able to detect at least a 0.1 gallon per hour leak rate at one and one-half times the operating pressure with a probability of detection of at least 0.95 and a probability of false alarm of no more than 0.05.

(2) **Performance.** Line tightness tests must be performed:

(a) By or under the direct supervision of a service provider certified in accordance with Part 9 of this chapter; and

(b) In accordance with the manufacturer's instructions and any conditions or limitations specified in the certification of the method or equipment.

(3) **Reporting.** Line tightness tests must be reported to the department within thirty days using the applicable checklist provided by the department. The checklist must be completed by the service provider.

#### NEW SECTION

##### **WAC 173-360A-0655 Interstitial monitoring.**

Owners and operators using interstitial monitoring must comply with the requirements of this section.

(1) **Standards.** The interstitial monitoring system must be able to detect a leak through the inner wall of any portion of the tank or underground piping that routinely contains a regulated substance. Methods that continuously monitor the interstitial space using a vacuum, pressure, or a liquid must be able to detect a breach in both the inner and outer walls.

(2) **Performance.** Interstitial monitoring must be performed in accordance with the manufacturer's instructions and any conditions or limitations specified in the certification of the equipment.

#### NEW SECTION

##### **WAC 173-360A-0660 Vapor monitoring.**

Owners and operators using vapor monitoring (testing or monitoring for vapors within the soil gas of the excavation zone) must comply with the requirements of this section. Except as otherwise provided in WAC 173-360A-0610(3) or 173-360A-0615(3), vapor monitoring may be either passive (monitoring for presence of regulated substance) or active (monitoring for presence of tracer compound).

###### **(1) Site conditions.**

(a) The materials used as backfill must be sufficiently porous (e.g., gravel, sand, crushed rock) to readily allow diffusion of vapors from releases into the excavation area.

(b) The stored regulated substance, or a tracer compound placed in the UST system, must be sufficiently volatile (e.g., gasoline) to result in a vapor level that is detectable by the monitoring devices located in the excavation zone in the event of a release from the UST system.

(c) The measurement of vapors by the monitoring device must not be rendered inoperative by the groundwater, rainfall, or soil moisture or other known interferences so that a release could go undetected for more than thirty days.

(d) The level of background contamination in the excavation zone must not interfere with the method used to detect releases from the UST system.

(2) **Site evaluations.** In the UST excavation zone, the site must be evaluated to ensure compliance with the requirements in subsection (1) of this section and to establish the number and positioning of monitoring wells that will detect releases within the excavation zone from any portion of the tank or piping being monitored that routinely contains product.

(a) **Performance.** Site evaluations must be performed by or under the direct supervision of a service provider certified in accordance with Part 9 of this chapter.

(b) **Reporting.** Site evaluations must be reported to the department within thirty days of the installation of the vapor monitoring system. The report must be submitted with the checklist required for the installation (WAC 173-360A-0300 (5)(b)). The report must be completed by the service provider. The report must identify the service provider and their certification type and number.

**(3) Monitoring wells.**

(a) Monitoring wells must be clearly marked and secured to avoid unauthorized access and tampering.

(b) Monitoring wells must be constructed, maintained, and decommissioned in accordance with chapter 173-160 WAC.

**(4) Vapor monitors.**

(a) Vapor monitors must be designed and operated to detect any significant increase in concentration above background of the regulated substance stored in the UST system, a component or components of that substance, or a tracer compound placed in the UST system.

(b) Vapor monitors must also be operated in accordance with the manufacturer's instructions and any conditions or limitations specified in the certification of the equipment.

**NEW SECTION**

**WAC 173-360A-0665 Groundwater monitoring.**

Owners and operators using groundwater monitoring (testing or monitoring for liquids on the groundwater) must comply with the requirements of this section. Except as otherwise provided in WAC 173-360A-0610(3) or 173-360A-0615(3), groundwater monitoring may be either passive (monitoring for presence of regulated substance) or active (monitoring for presence of tracer compound).

**(1) Site conditions.**

(a) The regulated substance stored must be immiscible in water and have a specific gravity of less than one.

(b) Groundwater must never be more than twenty feet from the ground surface and the hydraulic conductivity of the soil(s) between the UST system and the monitoring wells or devices must not be less than 0.01 cm/sec (e.g., the soil should consist of gravels, coarse to medium sands, coarse silts or other permeable materials).

(c) The slotted portion of the monitoring well casing must be designed to prevent migration of natural soils or filter pack into the well and to allow entry of regulated substance on the water table into the well under both high and low groundwater conditions.

(d) Monitoring wells must be sealed from the ground surface to the top of the filter pack.

(e) Monitoring wells or devices must intercept the excavation zone or must be as close to it as is technically feasible.

(2) **Site evaluations.** Within and immediately below the UST system excavation zone, the site must be evaluated to ensure compliance with the requirements in subsection (1) of this section and to establish the number and positioning of monitoring wells or devices that will detect releases from any

portion of the tank or piping being monitored that routinely contains product.

(a) **Performance.** Site evaluations must be performed by or under the direct supervision of a service provider certified in accordance with Part 9 of this chapter.

(b) **Reporting.** Site evaluations must be reported to the department within thirty days of the installation of the groundwater monitoring system. The report must be submitted with the checklist required for the installation (WAC 173-360A-0300 (5)(b)). The report must be completed by the service provider. The report must identify the service provider and their certification type and number.

**(3) Monitoring wells.**

(a) Monitoring wells must be clearly marked and secured to avoid unauthorized access and tampering.

(b) Monitoring wells must be constructed, maintained, and decommissioned in accordance with chapter 173-160 WAC.

**(4) Monitoring devices or manual methods.**

(a) The continuous monitoring devices or manual methods used must be able to detect the presence of at least one-eighth of an inch of free product on top of the groundwater in the monitoring wells.

(b) The continuous monitoring devices must be operated in accordance with the manufacturer's instructions and any conditions or limitations specified in the certification of the equipment.

**NEW SECTION**

**WAC 173-360A-0670 Statistical inventory reconciliation.** Owners and operators using statistical inventory reconciliation (SIR) must comply with the requirements of this section. SIR involves the application of statistical principles to inventory data similar to those described in WAC 173-360A-0620.

**(1) Standards.** The SIR method must:

(a) Be able to detect at least a 0.2 gallon per hour leak rate or a release of one hundred fifty gallons within a thirty-day period from any portion of the tank or underground piping that routinely contains a regulated substance with a probability of detection of at least 0.95 and a probability of false alarm of no more than 0.05;

(b) Use a threshold that does not exceed one-half the minimum detectable leak rate; and

(c) Be able to report a quantitative result with a calculated leak rate.

(2) **Performance.** SIR must be performed in accordance with the requirements of this subsection.

(a) Inventory control must be performed in accordance with the requirements in WAC 173-360A-0620 and the SIR vendor's instructions.

(b) SIR must be performed in accordance with any conditions or limitations specified in the certification of the SIR method.

(c) Conclusive SIR results must be obtained within the thirty-day monitoring period.

NEW SECTION

**WAC 173-360A-0675 Other release detection methods.** Owners and operators using other methods, or combinations of methods, of release detection must comply with the requirements of this section.

(1) **Standards.** Other release detection methods must:

(a) Be able to detect a 0.2 gallon per hour leak rate or a release of one hundred fifty gallons within a thirty-day period from any portion of the tank or underground piping that routinely contains a regulated substance with a probability of detection of at least 0.95 and a probability of false alarm of no more than 0.05; or

(b) Be approved by the department. To be approved, owners and operators must demonstrate the other method is able to detect a leak as effectively as any of the following methods. In comparing methods, the department will consider the size of release that can be detected and the frequency and reliability of detection. Owners and operators must comply with any additional requirements imposed by the department on its use to ensure protection of human health and the environment:

- (i) Automatic tank gauging (WAC 173-360A-0630);
- (ii) Tank tightness testing (WAC 173-360A-0635);
- (iii) Monthly automatic electronic line leak detection (WAC 173-360A-0645);
- (iv) Line tightness testing (WAC 173-360A-0650);
- (v) Interstitial monitoring (WAC 173-360A-0655);
- (vi) Vapor monitoring (WAC 173-360A-0660);
- (vii) Groundwater monitoring (WAC 173-360A-0665);

or

(viii) Statistical inventory reconciliation (WAC 173-360A-0670).

(2) **Performance.** Other release detection methods must be performed in accordance with the manufacturer's instructions, any conditions or limitations specified in the certification of the method or equipment, and any additional requirements imposed by the department.

**PART 7****RELEASE REPORTING, CONFIRMATION, AND CLEANUP**NEW SECTION

**WAC 173-360A-0700 Reporting of suspected releases.** Within twenty-four hours of identifying or being notified by another person of any of the following conditions, owners and operators of UST systems must report a suspected release to the department and initiate an investigation of the suspected release in accordance with WAC 173-360A-0720:

(1) Presence of released regulated substances at the UST facility or in the surrounding area (such as the presence of free product or its constituents or vapors in soils, basements, sewer or utility lines, groundwater, or surface water);

(2) Unusual operating conditions (such as the erratic behavior of product dispensing equipment, the sudden loss of regulated substances from an UST system, the unexplained presence of water in a tank, or the presence of liquid in the

interstitial space of a secondarily contained UST system), unless:

(a) The UST system component is found not to be releasing regulated substances to the environment;

(b) Any defective UST system component is immediately repaired in accordance with WAC 173-360A-0490 or replaced in accordance with WAC 173-360A-0300; and

(c) For secondarily contained UST systems, any liquid in the interstitial space not used as part of the interstitial monitoring method (for example, brine) is immediately removed; or

(3) Monitoring results or alarms from a release detection method required under Part 6 of this chapter indicate that a release may have occurred, unless:

(a) The alarm was investigated and determined to be a nonrelease event (for example, alarm caused by power surge or filling the tank during release detection testing);

(b) The release detection equipment is found to be defective, and either:

- (i) The defective equipment is immediately repaired or recalibrated in accordance with WAC 173-360A-0490 or replaced in accordance with WAC 173-360A-0300, and additional monitoring does not confirm the initial result; or

- (ii) Another applicable release detection method is used and additional monitoring does not confirm the initial result;

- (c) In the case of inventory control (WAC 173-360A-0620), a second month of data does not confirm the initial result. However, owners and operators must immediately investigate all larger-than-normal or reoccurring variations in inventory control results, and report such variations if they are unaccounted for, without waiting to obtain a second month of data; or

- (d) In the case of interstitial monitoring (WAC 173-360A-0655):

  - (i) The leak is contained in the secondary containment;

  - (ii) Any liquid in the interstitial space not used as part of the interstitial monitoring method (for example, brine) is immediately removed; and

  - (iii) Any defective UST system component is immediately repaired in accordance with WAC 173-360A-0490 or replaced in accordance with WAC 173-360A-0300.

**Note:** Other federal, state, and local laws may also require reporting, and in some cases investigation, of suspected releases.

NEW SECTION

**WAC 173-360A-0710 Investigation due to off-facility impacts.** When required by the department, owners and operators of an UST system must follow the procedures in WAC 173-360A-0720 to determine if the UST system is the source of off-facility impacts. These impacts include the discovery of regulated substances (such as the presence of free product or its constituents or vapors in soils, basements, sewer or utility lines, groundwater, or surface water) that has been observed by the department or brought to its attention by another person.

NEW SECTION**WAC 173-360A-0720 Release investigation and confirmation steps.**

Unless remedial action is initiated in accordance with WAC 173-360A-0750(4), owners and operators must immediately investigate and confirm all suspected releases of regulated substances requiring reporting under WAC 173-360A-0700 or investigation under WAC 173-360A-0710 using the following steps, except as otherwise directed by the department.

(1) **System test.** First, all tanks and underground piping suspected of a release must be tested to determine whether a leak exists or whether a breach exists in either wall of the secondary containment. The tests must be completed within seven days of identifying a suspected release or receiving notice that the department requires investigation of a suspected release.

(a) **Performance.** For each tank or pipe suspected of a release, one of the following tests must be performed:

(i) A tightness test of the tank or piping in accordance with WAC 173-360A-0635 or 173-360A-0650; or

(ii) A tightness test of the secondary containment area of the tank or piping used for interstitial monitoring in accordance with WAC 173-360A-0490 (4)(c) and, for piping, a tightness test of any containment sumps used for interstitial monitoring in accordance with WAC 173-360A-0450.

(b) **Next steps.**

(i) If the test results do not indicate there is a release and environmental contamination is not the basis for suspecting a release, then no further investigation is required.

(ii) If the test results do not indicate there is a release but environmental contamination is the basis for suspecting a release, then a site check must be performed in accordance with subsection (2) of this section.

(iii) If the test results confirm there is a leak into the interstice but do not indicate a release, then the defective UST system components must be repaired, replaced, or closed immediately. No further investigation is required.

(iv) If the test results indicate there is a release, then:

(A) The defective UST system components must be repaired, replaced, or closed immediately; and

(B) A site check must be performed in accordance with subsection (2) of this section.

(2) **Site check.** Second, if required based on the results of the system test in subsection (1) of this section, a site check must be performed to determine whether regulated substances have been released from the UST system into the environment. The site check must be completed within thirty days of identifying a suspected release or receiving notice that the department requires investigation of a suspected release.

(a) **Performance.** Site checks must be performed in accordance with WAC 173-360A-0730.

(b) **Next steps.**

(i) If the results of the site check do not indicate there is a release from the UST system that may pose a threat to human health or the environment, then no further investigation of the suspected release is required.

(ii) If the results of the site check confirm there is a release from the UST system that may pose a threat to human health or the environment, then the confirmed release must be

reported, investigated, and cleaned up in accordance with WAC 173-360A-0750.

NEW SECTION**WAC 173-360A-0730 Site assessment requirements.**

Owners and operators must ensure site assessments, including site checks, are performed in accordance with the requirements of this section.

(1) **Applicability.** Site assessments are required under this chapter to:

(a) Investigate a suspected release from an UST system, as applicable (WAC 173-360A-0720(2)). Such assessments are referred to as "site checks";

(b) Suspend financial responsibility for a temporarily closed UST system (WAC 173-360A-0800 (3)(c) and 173-360A-1010(2));

(c) Allow an UST system to be temporarily closed for more than twelve months when the tanks or piping do not meet applicable performance standards or upgrade requirements (WAC 173-360A-0800(4));

(d) Permanently close an UST system, or a tank or piping run that is part of an UST system (WAC 173-360A-0810(3)); and

(e) Undertake a change-in-service of an UST system (WAC 173-360A-0820(3)).

(2) **Service provider.** Site assessments must be performed or directly supervised by a service provider certified in accordance with Part 9 of this chapter. The service provider must be present at the UST facility when and where the site assessment is performed and any tanks or piping are removed.

(3) **Sampling and analysis plans.** A sampling and analysis plan must be prepared for all sampling activities that are part of a site assessment.

(a) **Submission.** The department may require a sampling and analysis plan be submitted to the department at least thirty days before any sampling is performed. The department may also require alternative sampling and analysis.

(b) **Content.** A sampling and analysis plan must include the following information at a minimum:

(i) The reasons for performing the site assessment;

(ii) The UST system or portion of the UST system around which the assessment is to be performed;

(iii) The media to be assessed, including under what circumstances groundwater will be assessed or an explanation of why groundwater does not need to be assessed;

(iv) The number and location of samples to be collected. If the plan does not include all of the soil samples specified in subsection (5)(a)(i) of this section, then the plan must explain how physical conditions prevent the collection of those samples;

(v) The methods to be used to collect and handle the samples;

(vi) The regulated substances to be analyzed for in the samples;

(vii) The methods to be used to analyze the samples for those substances;

(viii) The name of the accredited laboratory to be used to perform those analyses;

(ix) The methods to be used for quality assurance and quality control; and

(x) Any other information required by the department.

(4) **Health and safety requirements.** Persons performing site assessments under this chapter must comply, as applicable, with the requirements of the Occupational Safety and Health Act (20 U.S.C. Sec. 651 et seq.) and the Washington Industrial Safety and Health Act (chapter 49.17 RCW), and regulations promulgated pursuant thereto. These requirements are subject to enforcement by the designated federal and state agencies.

(5) **Sampling and analysis requirements.** Site assessments must be performed in accordance with the requirements of this subsection, except as otherwise directed by the department. The department may require additional sampling or analysis on a site-specific basis to confirm whether a release has occurred that may pose a threat to human health or the environment or to address any such threats.

**(a) Soil assessment.**

(i) **Number and location of samples.** Soil samples must be collected where contamination has been detected or is most likely to be present. At a minimum, the soil samples specified in Table 0730-1 must be collected unless:

(A) Physical conditions prevent the collection of any of the specified samples and an alternative sampling plan is prepared. The department must be notified in the site assessment report of any such changes and the reasons for the changes; or

(B) A release that may pose a threat to human health or the environment is confirmed without the collection of some or all of the specified samples.

(ii) **Regulated substances to be analyzed.** All regulated substances currently or previously stored in the UST system must be analyzed for in the soil samples.

(A) For petroleum, analyze for the substances specified for the type of product in Table 830-1 of WAC 173-340-900.

(B) For hazardous substances, analyze for the substances and any likely decomposition by-products.

(iii) **Analytical procedures.** The soil samples must be collected, handled, and analyzed in accordance with the requirements in WAC 173-340-830.

(iv) **Evaluation of results.** A release that may pose a threat to human health or the environment is confirmed if the concentration of any regulated substance analyzed in any of the soil samples exceeds the following levels:

(A) The level specified in Table 740-1 of WAC 173-340-900; or

(B) If a regulated substance is not listed in Table 740-1, a Method B unrestricted soil cleanup level established under WAC 173-340-740(3).

**(b) Groundwater assessment.**

(i) **Applicability.** Groundwater must be sampled if a release has not been confirmed by soil sampling and if:

(A) The lowest point of the UST system is located in groundwater;

(B) A release is suspected based on environmental contamination and the lowest point of the UST system is located within two feet of the seasonal high water table;

(C) Groundwater monitoring wells already exist at the UST facility where the site assessment is being performed, the wells are located in areas at the facility that would provide

useful data, and the condition of the wells allows for the collection of representative samples;

(D) Physical conditions prevent collection of all or some of the soil samples required under (a)(i) of this subsection and groundwater sampling is part of an alternative sampling plan; or

(E) Groundwater sampling is otherwise required by the department.

(ii) **Number and location of samples.** Groundwater samples must be collected where contamination has been detected or is most likely to be present.

(iii) **Regulated substances to be analyzed.** All regulated substances currently or previously stored in the UST system must be analyzed for in the groundwater samples.

(A) For petroleum, analyze for the substances specified for the type of product in Table 830-1 of WAC 173-340-900.

(B) For hazardous substances, analyze for the substances and any likely decomposition by-products.

(iv) **Analytical procedures.** The groundwater samples must be collected, handled, and analyzed in accordance with the requirements in WAC 173-340-830.

(v) **Evaluation of results.** A release that may pose a threat to human health or the environment is confirmed if the concentration of any regulated substance tested in any of the groundwater samples exceeds the following levels:

(A) The levels specified in Table 720-1 of WAC 173-340-900; or

(B) If the regulated substance is not listed in Table 720-1, a Method B potable groundwater cleanup level established under WAC 173-340-720(4).

(6) **Reporting and cleanup of confirmed releases.** If a site assessment confirms that a release has occurred from an UST system that may pose a threat to human health or the environment, then:

(a) The service provider who performed or directly supervised the site assessment must notify:

(i) An owner or operator of the UST system immediately; and

(ii) The department within twenty-four hours. However, if an owner or operator of the system is not immediately available, the service provider must notify the department immediately.

(b) Owners and operators must report, investigate, and clean up the confirmed release in accordance with WAC 173-360A-0750.

**(7) Reporting results of assessment.**

(a) Site assessments must be reported to the department within thirty days by submitting the applicable checklist provided by the department and a report including the information specified in subsection (8) of this section. Both the checklist and the report must be completed by the service provider.

(b) If a site assessment confirms a release that may pose a threat to human health or the environment, the site assessment report may be combined with the remedial action reports required under WAC 173-340-450, provided the combined report is submitted within thirty days of release confirmation.

(8) **Content of report.** At a minimum, site assessment reports must include the following information:

(a) Information about the service provider who performed or directly supervised the site assessment, including the name of the service provider, the certification type and number, and the firm with which the service provider is affiliated;

(b) Information about the UST system and the UST facility where the system is located, including:

(i) The name of the owner and operator of the system and the owner of the property where the system is located, if different;

(ii) The location of the system within the facility;

(iii) The components comprising the system;

(iv) Any previous repairs to the system;

(v) The type of regulated substances stored in the system, both currently and historically since the date of installation;

(vi) The dimensions of the excavation zone and the depth, width, and type of backfill material used within that zone, if known;

(vii) The number and location of any other currently or previously regulated systems at the facility; and

(viii) The types and locations of any groundwater monitoring wells at the facility;

(c) Information on any previous leaks or confirmed releases from the UST system, and whether the releases were cleaned up;

(d) The physical characteristics of the UST facility, including the following:

(i) The current uses of the land within and adjacent to the facility, and any known prior uses of that land;

(ii) The geology of the site, including soil types and characteristics;

(iii) The hydrology of the site, including:

(A) Surface draining characteristics;

(B) Depth to groundwater (including seasonal fluctuations);

(C) Presence of groundwater in the excavation zone, direction of groundwater flow (if relevant to any groundwater sampling plan);

(D) Proximity of the UST system to any nearby drinking water wells or surface water bodies (if known); and

(E) Potential hydraulic connections between groundwater and any nearby surface water bodies (if known); and

(iv) The location of tax parcel(s) comprising the facility, any above-ground and below-ground structures at the facility, any paved areas at the facility, and any roads or utilities on or adjacent to the facility;

(e) A summary of the sampling and analyses performed, including any changes to the plan or the sampling or analyses required under this section and the reason for those changes;

(f) All laboratory reports;

(g) The results of the site assessment, including:

(i) A table showing, for each field sample collected, the unique identifying number assigned to the sample, whether the sample was a composite sample, the laboratory results for all indicator constituents analyzed, the method used to analyze the sample, and the detection limit for that method;

(ii) Any factors that may have compromised the quality of the data or validity of the results; and

(iii) A conclusion as to whether there has been a release of regulated substances from the UST system that may pose a threat to human health or the environment;

(h) Site diagrams that include the following information at a minimum:

(i) The geographic location of the UST facility and a north arrow;

(ii) The location of the UST system within the UST facility, including the location of all tanks, piping, and dispensers, and any adjacent structures or streets;

(iii) To the extent known, the dimensions of the excavation zone and the backfill material used within that zone;

(iv) The physical characteristics of the UST facility, including the information specified in (d) of this subsection and the location of any other regulated UST systems at the facility; and

(v) The horizontal and vertical location of and unique identifying number for all samples collected for laboratory analysis, and which samples were collected from excavated soils. Diagrams must clearly differentiate between soil and groundwater samples and between investigatory and confirmation samples; and

(i) Any other information required by the department.

(9) **Department determination.** After receiving a site assessment report, the department will determine whether any further assessment or information is necessary. The department may require further sampling or analysis if:

(a) The assessment performed does not comply with the requirements of this section; or

(b) The department determines further assessment is necessary to confirm a suspected release, determine whether a release poses a threat to human health or the environment, or to address any such threats.

(10) **Recordkeeping.** Records of site assessments, including sampling and analysis plans and site assessment reports and checklists, must be maintained until six years after the UST system is permanently closed or undergoes a change-in-service.

Table 0730-1: Minimum Number and Location of Soil Samples

	Tanks	Piping	Dispensers																
In Place	<p>Collect the following samples around the excavation zone where contamination is most likely to be present:</p> <ul style="list-style-type: none"> <li>• When assessing single tank with a capacity of &lt; 9,000 gallons, collect three samples, one at each end and one on another side of the tank. (1, 2)</li> <li>• When assessing single tank with a capacity of <math>\geq</math> 9,000 gallons, collect four samples, one at each side of the tank. (1, 2)</li> <li>• When assessing multiple tanks in an excavation zone, collect four samples for the first tank and two additional samples for each additional tank, spacing the samples evenly around the excavation zone. (1, 2)</li> </ul>	<p>Collect one sample for every 50 feet of piping. For example, collect one sample if the piping run is less than 50 feet and two samples if the piping run is 50 to 100 feet. Collect the samples adjacent to the piping where contamination is most likely to be present, such as at connections, fittings, or elbows. (1, 2)</p>	<p>Collect one sample adjacent to each dispenser. (1, 2)</p>																
Removed	<p>Collect the following samples within the excavation zone where contamination is most likely to be present:</p> <ul style="list-style-type: none"> <li>• When assessing single tank with a capacity of &lt; 9,000 gallons, collect three samples, one beneath the tank (2), one beneath where the piping from the tank entered a sidewall, and one from another sidewall.</li> <li>• When assessing single tank with a capacity of <math>\geq</math> 9,000 gallons, collect five samples, one from beneath the tank (2), one beneath where the piping from the tank entered a sidewall, and one from each of the other three sidewalls.</li> <li>• When assessing multiple tanks from an excavation zone, collect five samples for the first tank and two additional samples for each additional tank, one beneath each tank (2), one beneath where piping from each tank entered a sidewall, and spacing remaining samples evenly around the sidewalls.</li> </ul> <p>Collect the following samples from excavated soils where contamination is most likely to be present:</p> <table border="1"> <thead> <tr> <th>Cubic Yards of Soil</th> <th>Minimum Number of Samples</th> </tr> </thead> <tbody> <tr> <td>0-25</td> <td>1</td> </tr> <tr> <td>26-50</td> <td>2</td> </tr> <tr> <td>51-100</td> <td>3</td> </tr> <tr> <td>101-500</td> <td>5</td> </tr> <tr> <td>501-1000</td> <td>7</td> </tr> <tr> <td>1001-2000</td> <td>10</td> </tr> <tr> <td>&gt;2000</td> <td>10 + 1 additional sample for each additional 500 cubic yards of soil</td> </tr> </tbody> </table>	Cubic Yards of Soil	Minimum Number of Samples	0-25	1	26-50	2	51-100	3	101-500	5	501-1000	7	1001-2000	10	>2000	10 + 1 additional sample for each additional 500 cubic yards of soil	<p>Collect one sample for every 50 feet of piping. For example, collect one sample if the piping run is less than 50 feet and two samples if the piping run is 50 to 100 feet. Collect the samples beneath the piping where contamination is most likely to be present, such as at connections, fittings, or elbows. (2)</p>	<p>Collect one sample beneath each dispenser. (2)</p>
Cubic Yards of Soil	Minimum Number of Samples																		
0-25	1																		
26-50	2																		
51-100	3																		
101-500	5																		
501-1000	7																		
1001-2000	10																		
>2000	10 + 1 additional sample for each additional 500 cubic yards of soil																		

Footnotes: (1) **Horizontal distance:** The specified samples must be collected from native soil as close as practicable to, but no more than ten feet from the applicable tank, pipe, or dispenser.

(2) **Vertical distance:** The specified samples must be collected from native soil as close as practicable to the bottom of the applicable tank, pipe, or dispenser. If groundwater is encountered, soil samples must be collected at the approximate top of the water table.

#### NEW SECTION

**WAC 173-360A-0740 Reporting and cleanup of spills and overfills.** Owners and operators must respond to spills and overfills of regulated substances in accordance with the requirements of this section.

(1) If a spill or overfill of regulated substances from an UST system results in a release that may pose a threat to human health or the environment, including in the following cases, then the release must be reported, investigated, and cleaned up in accordance with WAC 173-360A-0750:

(a) A spill or overfill of petroleum results in a release to the environment of more than twenty-five gallons, a sheen on surface water, or groundwater contamination; or

(b) A spill or overfill of a hazardous substance results in a release to the environment of more than the reportable quantity specified in 40 C.F.R. Sec. 302.

(2) If a spill or overfill of regulated substances from an UST system does not result in a release or results in a release that does not pose a threat to human health or the environment, then the spill or overfill must be:

(a) Immediately contained and cleaned up as follows:

(i) Eliminate or reduce any fire, explosive, or vapor hazards resulting from the spill or overfill, and do so in a manner that minimizes the release of regulated substances into the environment;

(ii) Prevent the release or further release of regulated substances into the environment and the migration of any substances already released;

(iii) Absorb or otherwise contain any free product and properly dispose of the product and any used absorbent materials in accordance with all applicable federal, state, and local requirements. Free product must not be flushed into storm drains, catch basins, dry wells, monitoring wells, or other locations with a possible connection to surrounding soils, groundwater, or surface water; and

(iv) Provide for the proper disposal or treatment of any contaminated soils in accordance with applicable federal, state, and local requirements; and

(b) Reported to the department within twenty-four hours if the cleanup required under (a) of this subsection has not been completed.

**Note:** Other federal, state, and local laws may also require reporting, and in some cases cleanup, of spills and overfills.

#### NEW SECTION

**WAC 173-360A-0750 Reporting and cleanup of confirmed releases.** Owners and operators must immediately respond to all confirmed releases of regulated substances from UST systems that may pose a threat to human health or the environment, including those confirmed under WAC 173-360A-0720 through 173-360A-0740, in accordance with the requirements of this section.

(1) Within twenty-four hours of confirming a release, the release must be reported to the department.

(2) Within twenty-four hours of confirming a release, the UST system must be secured to prevent further delivery or deposit of regulated substances until the defective UST system components are repaired, replaced, or closed.

(3) Within thirty days of confirming a release, financial responsibility records must be submitted to the department in accordance with WAC 173-360A-1045 (2)(a).

(4) Confirmed releases must be investigated and cleaned up in accordance with chapter 173-340 WAC or as otherwise directed by the department under chapter 90.48 RCW.

**Note:** Other federal, state, and local laws may also require reporting, and in some cases cleanup, of confirmed releases.

## PART 8

### CLOSURE

#### NEW SECTION

**WAC 173-360A-0800 Temporary closure of UST systems.** Owners and operators of temporarily closed UST systems must comply with the requirements of this section.

(1) **Taking UST systems out of operation.** Within thirty days of temporarily closing an UST system:

(a) The department must be notified using the applicable form provided by the department; and

(b) If the UST system will be temporarily closed for more than ninety days, the following actions must be completed and reported to the department on the form:

(i) Ensure vent lines are open and functioning;

(ii) Cap or secure all other lines, pumps, entryways, and ancillary equipment;

(iii) Empty the UST system in accordance with subsection (2) of this section, or measure the amount of regulated substances remaining in the system; and

(iv) If no UST systems are in operation at the UST facility, return the facility compliance tag to the department.

(2) **Emptying temporarily closed UST systems.** When emptying a temporarily closed UST system:

(a) All materials must be removed from the UST system using commonly employed practices. The remaining residue in the tanks must not exceed 2.54 centimeters (one inch); and

(b) The department must be notified in writing within thirty days. The notice must include documentation that the UST system has been emptied, such as an invoice. This notice may be combined with the notice required under subsection (1) of this section.

(3) **Maintaining compliance during temporary closure.** Except as otherwise provided in this subsection, owners and operators must comply with all of the applicable requirements of this chapter during temporary closure, including maintenance of corrosion protection and payment of annual tank fees.

(a) **Spill and overfill prevention.** The following tests and inspections of spill and overfill prevention equipment may be suspended during temporary closure, regardless of whether the UST system is emptied in accordance with subsection (2) of this section:

(i) Walkthrough inspections of spill prevention equipment (WAC 173-360A-0420);

(ii) Monitoring and tightness tests of spill prevention equipment (WAC 173-360A-0460); and

(iii) Inspections of overfill prevention equipment (WAC 173-360A-0470).

(b) **Release detection and containment.** Release detection in Part 6 of this chapter and the following tests and inspections of release detection equipment and containment may be suspended during temporary closure if an UST system is emptied in accordance with subsection (2) of this section:

(i) Walkthrough inspections of release detection equipment, containment sumps, and hydrant pits and vaults (WAC 173-360A-0420);

(ii) Monitoring and tightness tests of containment sumps used for interstitial monitoring (WAC 173-360A-0450); and

(iii) Tests of release detection equipment (WAC 173-360A-0480).

(c) **Financial responsibility.** Financial responsibility in Part 10 of this chapter may be suspended during temporary closure if:

(i) The UST system is emptied in accordance with subsection (2) of this section; and

(ii) After the UST system is emptied, a site assessment around the UST system is completed and reported in accordance with WAC 173-360A-0730. Unless otherwise directed by the department, a site assessment is not required if:

(A) A release from the UST system had previously been confirmed and reported to the department; and

(B) Further remedial action is necessary to investigate or clean up the confirmed release under WAC 173-360A-0750(4).

(4) **Permanent closure of substandard UST systems.** An UST system must be permanently closed within twelve months of temporary closure if the tanks or piping do not meet the applicable performance standards or upgrade requirements in Part 3 of this chapter, unless:

(a) A site assessment is performed around the UST system in accordance with WAC 173-360A-0730. Unless otherwise directed by the department, a site assessment is not required if:

(i) A release from the UST system had previously been confirmed and reported to the department; and

(ii) Further remedial action is necessary to investigate or clean up the confirmed release under WAC 173-360A-0750(4); and

(b) The department provides an extension of the twelve-month period. Requests for extensions must be submitted to the department in writing after the site assessment is completed.

#### **(5) Returning UST systems to operation.**

(a) **Requirements for all temporarily closed UST systems.** Before returning an UST system to operation, owners and operators must comply with all of the applicable requirements of this chapter, including any suspended during temporary closure under subsection (3) of this section. If financial responsibility is suspended during temporary closure, the owner or operator must demonstrate financial responsibility in accordance with WAC 173-360A-1045 (1)(a) or (b), as applicable, before returning an UST system to operation.

(b) **Additional requirements for UST systems temporarily closed more than ninety days.** When an UST system is temporarily closed for more than ninety days, owners and operators must also comply with the following additional requirements.

(i) **Tests and inspections.** Before returning an UST system to operation, the following tests and inspections, as applicable, must be completed to ensure the UST system is operating properly and will prevent releases to the environment.

(A) **Tanks and piping.** If release detection is suspended during temporary closure, tightness tests of tanks and piping must be performed in accordance with WAC 173-360A-0635 and 173-360A-0650. This requirement does not apply to suction piping meeting the standards in WAC 173-360A-0600 (1)(b)(i) through (v). The department must authorize any delivery or deposit of regulated substances needed to perform the tightness tests. To obtain such authorization:

(I) A preliminary evaluation of the tanks (such as a pressure decay test) must be performed; and

(II) A request must be submitted to the department using the applicable form provided by the department. The results of the preliminary evaluation must be included with the request.

(B) **Spill and overfill prevention equipment.** If suspended during temporary closure, the following tests and inspections of spill and overfill prevention equipment must be performed:

(I) Walkthrough inspections of spill prevention equipment (WAC 173-360A-0420);

(II) Monitoring or tightness tests of spill prevention equipment (WAC 173-360A-0460); and

(III) Inspections of overfill prevention equipment (WAC 173-360A-0470).

(C) **Release detection equipment and containment.** If suspended during temporary closure, the following tests and inspections of release detection equipment and containment must be performed:

(I) Walkthrough inspections of release detection equipment, containment sumps, and hydrant pits and vaults (WAC 173-360A-0420);

(II) Monitoring or tightness tests of containment sumps used for interstitial monitoring (WAC 173-360A-0450); and

(III) Tests of release detection equipment (WAC 173-360A-0480).

(ii) **Notification of return to operation.** Within thirty days of returning an UST system to operation, the department must be notified using the applicable form provided by the department. The completed checklists of any UST system services required to return the UST system to operation must be included with the notification form.

(c) **Reissuance of facility compliance tag.** If the facility compliance tag for an UST facility is returned to the department under subsection (1)(b)(iv) of this section, the department will reissue a facility compliance tag upon receipt of the completed notification form required under (b)(ii) of this subsection.

#### **NEW SECTION**

**WAC 173-360A-0810 Permanent closure of UST systems.** Owners and operators must permanently close an UST system, or a tank or piping run that is part of an UST system, in accordance with the requirements of this section.

(1) **Notice of intent.** Owners and operators must notify the department of their intent to permanently close an UST system, or a tank or piping run that is part of an UST system, at least thirty days, but no more than ninety days, before the planned start date using the applicable form provided by the department. Owners and operators must also confirm the

planned start date with the department at least three business days before starting permanent closure.

(2) **Decommission.** When an UST system, or a tank or piping run that is part of an UST system, undergoes permanent closure, it must be decommissioned in accordance with the requirements of this subsection.

(a) **Actions.** To decommission an UST system, or a tank or piping run, undergoing permanent closure, the following actions must be completed, as applicable:

(i) Tanks must be emptied and cleaned by removing all liquids and accumulated sludge;

(ii) Piping must be emptied by removing all liquids;

(iii) Tanks must be removed from the ground or closed in place by filling with an inert solid material or in another manner approved by the department;

(iv) Piping must be removed from the ground or closed in place by capping; and

(v) Any liquids or sludge removed from the tanks or piping must be designated and disposed of in accordance with all applicable federal, state, and local requirements.

(b) **Performance.** Decommissioning must be performed:

(i) By or under the direct supervision of a service provider certified in accordance with Part 9 of this chapter; and

(ii) In accordance with a code of practice. The following codes of practice may be used to meet this requirement:

(A) American Petroleum Institute, Recommended Practice 1604, "Closure of Underground Petroleum Storage Tanks";

(B) American Petroleum Institute, Standard 2015, "Safe Entry and Cleaning of Petroleum Storage Tanks, Planning and Managing Tank Entry from Decommissioning through Recommissioning";

(C) American Petroleum Institute, Recommended Practice 2016, "Guidelines and Procedures for Entering and Cleaning Petroleum Storage Tanks";

(D) American Petroleum Institute, Recommended Practice 1631, "Interior Lining and Periodic Inspection of Underground Storage Tanks";

(E) National Fire Protection Association, Standard 326, "Standard for the Safeguarding of Tanks and Containers for Entry, Cleaning, or Repair"; and

(F) National Institute for Occupational Safety and Health, Publication 80-106, "Criteria for a Recommended Standard: Working in Confined Spaces."

(c) **Reporting.** Decommissioning must be reported to the department within thirty days using the applicable checklist provided by the department. The checklist must be completed by the service provider.

(3) **Site assessment.** When an UST system, or a tank or piping run that is part of an UST system, undergoes permanent closure, a site assessment must be conducted around the system or the part of the system being closed in accordance with WAC 173-360A-0730. Unless otherwise directed by the department, a site assessment is not required if:

(a) A release from the UST system had previously been confirmed and reported to the department; and

(b) Further remedial action is necessary to investigate or clean up the confirmed release under WAC 173-360A-0750(4).

(4) **Return of facility compliance tag.** If there are no UST systems in operation at the UST facility, the facility compliance tag must be returned to the department with the checklist required under subsection (2)(c) of this section.

(5) **Partially exempt UST systems - Notice of permanent closure.** Owners and operators of a partially exempt UST system identified in WAC 173-360A-0110 (2)(a) must notify the department in writing within thirty days of the permanent closure of the UST system.

## NEW SECTION

**WAC 173-360A-0820 Change-in-service of UST systems.** Owners and operators must undertake a change-in-service of an UST system in accordance with the requirements of this section.

(1) **Notice of intent.** Owners and operators must notify the department of their intent to undertake a change-in-service of an UST system at least thirty days, but no more than ninety days, before the planned start date using the applicable form provided by the department. Owners and operators must also confirm the planned start date with the department at least three business days before starting the change-in-service.

(2) **Decommission.** When an UST system undergoes a change-in-service, the system must be decommissioned in accordance with the requirements of this subsection.

(a) **Actions.** To decommission an UST system undergoing a change-in-service, the following actions must be completed, as applicable:

(i) Tanks must be emptied and cleaned by removing all liquids and accumulated sludge;

(ii) Piping must be emptied of all liquids; and

(iii) Any liquids or sludge removed from the tanks or piping must be designated and disposed of in accordance with all applicable federal, state, and local requirements.

(b) **Performance.** Decommissioning must be performed:

(i) By or under the direct supervision of a service provider certified in accordance with Part 9 of this chapter; and

(ii) In accordance with a code of practice. The following codes of practice may be used to meet this requirement:

(A) American Petroleum Institute, Recommended Practice 1604, "Closure of Underground Petroleum Storage Tanks";

(B) American Petroleum Institute, Standard 2015, "Safe Entry and Cleaning of Petroleum Storage Tanks, Planning and Managing Tank Entry from Decommissioning through Recommissioning";

(C) American Petroleum Institute, Recommended Practice 2016, "Guidelines and Procedures for Entering and Cleaning Petroleum Storage Tanks";

(D) American Petroleum Institute, Recommended Practice 1631, "Interior Lining and Periodic Inspection of Underground Storage Tanks";

(E) National Fire Protection Association, Standard 326, "Standard for the Safeguarding of Tanks and Containers for Entry, Cleaning, or Repair"; and

(F) National Institute for Occupational Safety and Health, Publication 80-106, "Criteria for a Recommended Standard: Working in Confined Spaces."

(c) **Reporting.** Decommissioning must be reported to the department within thirty days using the applicable checklist provided by the department. The checklist must be completed by the service provider.

(3) **Site assessment.** When an UST system undergoes a change-in-service, a site assessment must be performed around the system in accordance with WAC 173-360A-0730. Unless otherwise directed by the department, a site assessment is not required if:

(a) A release from the UST system had previously been confirmed and reported to the department; and

(b) Further remedial action is necessary to investigate or clean up the confirmed release under WAC 173-360A-0750(4).

(4) **Return of facility compliance tag.** If there are no UST systems in operation at the UST facility, the facility compliance tag must be returned to the department with the checklist required under subsection (2)(c) of this section.

(5) **Partially exempt UST systems - Notice of change-in-service.** Owners and operators of a partially exempt UST system identified in WAC 173-360A-0110 (2)(a) must notify the department in writing within thirty days of the change-in-service of the UST system.

#### NEW SECTION

**WAC 173-360A-0830 Previously closed UST systems.** When directed by the department, owners and operators of the following UST systems must permanently close those systems (decommission and perform site assessments around the systems) in accordance with WAC 173-360A-0810 if the department determines releases from those systems may pose a current or potential threat to human health or the environment or if any additional closure activities are performed:

(1) UST systems permanently closed before December 22, 1988; and

(2) Previously deferred UST systems permanently closed before October 1, 2018.

**Table 0920-1: Type of Certification Required to Perform UST System Services**

UST System Service	Service Requirements	Type of Certification
<b>Services not involving corrosion protection</b>		
Installing UST systems or components	WAC 173-360A-0300	Installation/repair
Performing internal inspections of tanks	WAC 173-360A-0320 (1) and (2)(a)(ii)(A), WAC 173-360A-0330 (1) and (2)(a)(i)(B), or WAC 173-360A-0440	Installation/repair

## PART 9

### SERVICE PROVIDERS

#### NEW SECTION

**WAC 173-360A-0900 Purpose and applicability.** (1) This part establishes a certification program for service providers, specifies the responsibilities of services providers, and identifies which services on UST systems must be performed by certified service providers. The certification program is designed to ensure that the services performed on UST systems are performed safely and in a manner that will protect human health and the environment.

(2) The requirements of this part apply to any services performed on an UST system requiring the use of a service provider under this chapter.

(3) The applicability of this part does not affect the applicability of any other legally applicable licensing requirements or manufacturer certification requirements.

#### NEW SECTION

**WAC 173-360A-0910 General requirements.** Owners and operators must ensure that:

(1) UST system services are performed by or under the direct supervision of a service provider who is certified to perform the services in accordance with WAC 173-360A-0920 and 173-360A-0930;

(2) UST system services are performed in accordance with the requirements of this chapter and any other legally applicable requirements;

(3) UST system services are reported in accordance with WAC 173-360A-0230(3); and

(4) Records of UST system services are maintained in accordance with WAC 173-360A-0240(1).

#### NEW SECTION

**WAC 173-360A-0920 Certifications required to perform services.** Owners and operators must ensure that UST system services are performed by or under the direct supervision of a service provider certified in accordance with the requirements of this section. Table 0920-1 identifies the UST system services requiring the use of a service provider and the certification that a service provider must have to perform those services. There are six types of certification, which are specified in WAC 173-360A-0930. Some UST system services may be performed by more than one type of service provider.

<b>UST System Service</b>	<b>Service Requirements</b>	<b>Type of Certification</b>
Tightness testing of containment sumps used for interstitial monitoring	WAC 173-360A-0450	Tightness testing or installation/repair
Tightness testing of spill prevention equipment	WAC 173-360A-0460	Tightness testing or installation/repair
Inspecting overfill prevention equipment	WAC 173-360A-0470	Tightness testing or installation/repair
Testing of electronic or mechanical release detection equipment	WAC 173-360A-0480	Tightness testing or installation/repair
Repairing UST system components, except cathodic protection systems	WAC 173-360A-0490	Installation/repair
Tightness testing of secondary containment areas of tanks or piping used for interstitial monitoring	WAC 173-360A-0490 (4)(c)	Tightness testing or installation/repair
Tightness testing of tanks	WAC 173-360A-0635	Tightness testing
Tightness testing of piping	WAC 173-360A-0650	Tightness testing
Site evaluations required to use vapor or groundwater monitoring as a release detection method	WAC 173-360A-0660(2) or WAC 173-360A-0665(2)	Site assessment
Site assessments, including site checks	WAC 173-360A-0730	Site assessment
Decommissioning tanks or piping undergoing permanent closure or change-in-service	WAC 173-360A-0810(2) or WAC 173-360A-0820(2)	Decommissioning
<b>Services involving corrosion protection</b>		
Assessments of corrosion potential	WAC 173-360A-0310 (3)(c)	Corrosion expert
Designing cathodic protection systems	WAC 173-360A-0310 (3)(b) and WAC 173-360A-0300	Corrosion expert
Installing cathodic protection systems designed by corrosion expert	WAC 173-360A-0300	Installation/repair, corrosion expert, or cathodic protection tester (1)
Testing cathodic protection systems	WAC 173-360A-0430(2)	Corrosion expert or cathodic protection tester
Evaluating cathodic protection systems that are inadequately protecting tanks or piping based on results of cathodic protection tests or rectifier inspections	WAC 173-360A-0430(2) or WAC 173-360A-0430(3)	Corrosion expert
Specifying or designing repairs of cathodic protection systems, including rectifier adjustments	WAC 173-360A-0310 (3)(b) and WAC 173-360A-0490	Corrosion expert
Repairing cathodic protection systems, including making rectifier adjustments, specified or designed by corrosion expert	WAC 173-360A-0490	Installation/repair, corrosion expert, or cathodic protection tester (1)

Footnotes: (1) To perform the specified UST system services, a cathodic protection tester must be certified by the International Code Council.

**NEW SECTION**

**WAC 173-360A-0930 Certification of service providers.** Owners and operators must ensure that service providers performing UST system services are certified in accordance with the requirements of this section.

(1) **Installation and repair.** To perform or directly supervise UST system services requiring certification in installation and repair, a service provider must be certified as having sufficient education and experience by:

(a) The International Code Council (UST Installation/Retrofitting - U1);

(b) Another nationally or internationally recognized association approved by the department that provides a qualifying examination; or

(c) Passing another qualifying examination approved by the department.

(2) **Tightness testing.** To perform or directly supervise UST system services requiring certification in tightness testing, a service provider must be certified as having sufficient education and experience by:

(a) The International Code Council (UST Tank Tightness Testing - U3);

(b) Another nationally or internationally recognized association approved by the department that provides a qualifying examination; or

(c) Passing another qualifying examination approved by the department.

(3) **Site assessment.** To perform or directly supervise UST system services requiring certification in site assessment, a service provider must be certified as having sufficient education and experience by:

(a) The International Code Council (Washington State Site Assessment - U7);

(b) Another nationally or internationally recognized association approved by the department that provides a qualifying examination;

(c) Passing another qualifying examination approved by the department; or

(d) Being licensed as a professional engineer or hydrogeologist in Washington state under chapter 18.43 or 18.220 RCW and being able to demonstrate competence in site assessment by means of examination, experience, or education.

(4) **Decommissioning.** To perform or directly supervise UST system services requiring certification in decommissioning, a service provider must be certified as having sufficient education and experience by:

(a) The International Code Council (UST Decommissioning - U2);

(b) Another nationally or internationally recognized association approved by the department that provides a qualifying examination; or

(c) Passing another qualifying examination approved by the department.

(5) **Corrosion expert.** To perform or directly supervise UST system services requiring certification as a corrosion expert, as defined in WAC 173-360A-0150(13), a service provider must be certified as having sufficient education and experience by:

(a) The National Association of Corrosion Engineers;

(b) Another nationally or internationally recognized association approved by the department that provides a qualifying examination;

(c) Passing another qualifying examination approved by the department; or

(d) Being licensed as a professional engineer in Washington state under chapter 18.43 RCW and certified as cathodic protection tester under subsection (6) of this section.

(6) **Cathodic protection tester.** To perform or directly supervise UST system services requiring certification as a cathodic protection tester, as defined in WAC 173-360A-0150(4), a service provider must be certified as having sufficient education and experience by:

(a) The International Code Council (UST Cathodic Protection - U4);

(b) The National Association of Corrosion Engineers;

(c) The Steel Tank Institute;

(d) Another nationally or internationally recognized association approved by the department that provides a qualifying examination; or

(e) Passing another qualifying examination approved by the department.

**NEW SECTION**

**WAC 173-360A-0940 Responsibilities of service providers.** Service providers must comply with the requirements of this section.

(1) **Certification and records.**

(a) Service providers must be certified to perform or directly supervise the performance of UST system services in accordance with WAC 173-360A-0920 and 173-360A-0930.

(b) Service providers must maintain proof that they are certified to perform or directly supervise the performance of UST system services under WAC 173-360A-0920 and 173-360A-0930, such as licenses or certificates, and make such proof readily available for inspection upon request by the department.

(2) **Performance of services.** Services providers must perform or directly supervise the performance of UST system services in accordance with the requirements of this chapter and any other legally applicable requirements, including:

(a) Chapters 18.27 RCW and 296-200A WAC, which apply to individuals who are general and specialty contractors;

(b) Chapters 18.104 RCW and 173-162 WAC, which apply to individuals who install groundwater monitoring wells;

(c) Chapters 19.28 RCW and 296-46B WAC, which apply to individuals who install and repair impressed current cathodic protection systems; and

(d) Chapters 49.17 RCW and 296-62 and 296-802 WAC, which apply to individuals engaged in activities involving hazardous chemicals and substances and who perform confined space entry during field activities, and chapter 296-155 WAC, which sets forth safety standards for construction work.

(3) **Presence during services.** Service providers must be present at the UST facility when and where UST system ser-

vices are performed, including during the activities specified in this subsection.

(a) When installing tanks or piping, services providers must be present when:

(i) Preparing the excavation zone immediately before receiving backfill and placing the tanks or piping into the excavation zone;

(ii) Any movement of the tanks at the UST facility, including transferring the tanks from the vehicle used to transport them to the facility;

(iii) Setting the tanks or piping into the excavation zone, including placing any anchoring devices or strapping, and backfilling to the level of the tank or piping;

(iv) Placing and connecting the piping to tanks or dispensers;

(v) Pressure testing the tanks or piping during installation; and

(vi) Completing the backfill and filling of the excavation zone.

(b) When decommissioning tanks or piping runs undergoing permanent closure or a change-in-service, services providers must be present when:

(i) Purging or inerting the tanks or piping;

(ii) Excavating around the tanks or piping before removal;

(iii) Removing the tanks from the excavation zone;

(iv) Removing or capping the piping;

(v) Cleaning the tanks, including removing and disposing of any accumulated sludge; and

(vi) Undertaking any movement of the tanks at the UST facility, including transferring tanks to the vehicle used to transport them from the facility.

(c) Tanks and piping runs undergoing permanent closure may not be removed from the ground unless both the service provider decommissioning the tanks or piping runs and the service provider performing the site assessment are present.

(4) **Documenting services.** Service providers must document the UST system services specified in WAC 173-360A-0230(3) by completing the applicable checklists and reports required under this chapter.

(5) **Reporting noncompliance.** If a service provider determines that an UST system for which they are providing services is not in compliance with the requirements of this chapter, then the service provider must notify the owner or operator of the determination within twenty-four hours.

(6) **Reporting confirmed releases.** If a service provider confirms a release from an UST system that may pose a threat to human health or the environment, then the service provider must notify:

(a) The owner or operator of the UST system immediately; and

(b) The department within twenty-four hours. However, if an owner or operator of the UST system is not immediately available, the service provider must notify the department immediately.

(7) **Enforcement and penalties.** Service providers who violate the requirements of this chapter or submit false information under this chapter are subject to enforcement and civil penalties under WAC 173-360A-0270 and 173-360A-0290.

## PART 10

### FINANCIAL RESPONSIBILITY

#### NEW SECTION

**WAC 173-360A-1000 Applicability.** (1) This part applies to owners and operators of all UST systems except as otherwise provided in this section.

(2) This part does not apply to owners and operators of any exempt UST system described in WAC 173-360A-0110(1).

(3) State and federal government entities whose debts and liabilities are the debts and liabilities of a state or the United States are exempt from the requirements of this part.

(4) If the owner and operator of an UST system are separate persons, only one person is required to demonstrate financial responsibility; however, both parties are liable in event of noncompliance.

#### NEW SECTION

**WAC 173-360A-1005 Definition of terms.** For the purposes of this part, the following definitions apply unless the context clearly indicates otherwise.

(1) "**Accidental release**" means any sudden or nonsudden release of regulated substances arising from operating an underground storage tank that results in a need for remedial action and/or compensation for bodily injury or property damage neither expected nor intended by the tank owner or operator.

(2) "**Bodily injury**" has the meaning given to this term by applicable state law; however, this term does not include those liabilities which, consistent with standard insurance industry practices, are excluded from coverage in liability insurance policies for bodily injury.

(3) "**Chief financial officer,**" in the case of local government owners and operators, means the individual with the overall authority and responsibility for the collection, disbursement, and use of funds by the local government.

(4) "**Controlling interest**" means direct ownership of at least fifty percent of the voting stock of another entity.

(5) "**Financial reporting year**" means the latest consecutive twelve-month period for which any of the following reports used to support a financial test is prepared: (a) A 10-K report submitted to the U.S. Securities and Exchange Commission; (b) an annual report of tangible net worth submitted to Dun and Bradstreet; or (c) annual reports submitted to the Energy Information Administration or the Rural Utilities Service. "Financial reporting year" may thus comprise a fiscal or a calendar year period.

(6) "**Legal defense cost**" means any expense that an owner or operator or provider of financial assurance incurs in defending against claims or actions brought:

(a) By the U.S. Environmental Protection Agency or a state to require remedial action or to recover the costs of remedial action;

(b) By or on behalf of a third party for bodily injury or property damage caused by an accidental release; or

(c) By any person to enforce the terms of a financial assurance mechanism.

(7) "**Local government**" has the meaning given to this term by applicable state law and includes Indian tribes. The term is generally intended to include:

(a) Counties, municipalities, townships, separately chartered and operated special districts (including local government public transit systems and redevelopment authorities), and independent school districts authorized as governmental bodies by state charter or constitution; and

(b) Special districts and independent school districts established by counties, municipalities, townships, and other general purpose governments to provide essential services.

(8) "**Occurrence**" means an accident, including continuous or repeated exposure to conditions, which results in a release from an underground storage tank. This definition is intended to assist in the understanding of this part and is not intended either to limit the meaning of "occurrence" in a way that conflicts with standard insurance usage or to prevent the use of other standard insurance terms in place of "occurrence."

(9) "**Owner or operator**," means, for the purposes of this part, when the owner or operator are separate parties, the party that is responsible for obtaining or has obtained financial assurances.

(10) "**Petroleum marketing facilities**" means all facilities at which petroleum is produced or refined and all facilities from which petroleum is sold or transferred to other petroleum marketers or to the public.

(11) "**Property damage**" has the meaning given to this term by applicable state law. This term does not include those liabilities which, consistent with standard insurance industry practices, are excluded from coverage in liability insurance policies for property damage. However, such exclusions for property damage do not include remedial action associated with releases from underground storage tanks which are covered by the policy.

(12) "**Provider of financial assurance**" means an entity that provides financial assurance to an owner or operator of an underground storage tank through one of the mechanisms listed in WAC 173-360A-1060 through 173-360A-1073, including a guarantor, insurer, risk retention group, surety, or issuer of a letter of credit.

(13) "**Substantial business relationship**" means the extent of a business relationship necessary under applicable state law to make a guarantee contract issued incident to that relationship valid and enforceable. A guarantee contract is issued "incident to that relationship" if it arises from and depends on existing economic transactions between the guarantor and the owner or operator.

(14) "**Substantial governmental relationship**" means the extent of a governmental relationship necessary under applicable state law to make an added guarantee contract issued incident to that relationship valid and enforceable. A guarantee contract is issued "incident to that relationship" if it arises from a clear commonality of interest in the event of an underground storage tank release such as coterminous boundaries, overlapping constituencies, common groundwater aquifer, or other relationship other than monetary compensa-

tion that provides a motivation for the guarantor to provide a guarantee.

(15) "**Tangible net worth**" means the tangible assets that remain after deducting liabilities; such assets do not include intangibles such as goodwill and rights to patents or royalties. For purposes of this definition, "assets" means all existing and all probable future economic benefits obtained or controlled by a particular entity as a result of past transactions.

(16) "**Termination**" under WAC 173-360A-1082 and 173-360A-1083 means only those changes that could result in a gap in coverage as where the insured has not obtained substitute coverage or has obtained substitute coverage with a different retroactive date than the retroactive date of the original policy.

#### NEW SECTION

**WAC 173-360A-1010 Period of financial responsibility.** (1) **General requirement.** Except as provided in subsection (2) of this section, an owner or operator must continuously demonstrate financial responsibility for an UST system from the date of its installation until the date of its permanent closure or change-in-service.

(2) **Suspension during temporary closure.** An owner or operator is not required to demonstrate financial responsibility for an UST system while it is temporarily closed if:

(a) The UST system is emptied in accordance with WAC 173-360A-0800(2); and

(b) After the UST system is emptied, a site assessment around the UST system is completed and reported in accordance with WAC 173-360A-0730. Unless otherwise directed by the department, a site assessment is not required if:

(i) A release from the UST system had previously been confirmed and reported to the department; and

(ii) Further remedial action is necessary to investigate or clean up the confirmed release under WAC 173-360A-0750(4).

#### NEW SECTION

**WAC 173-360A-1015 Scope and amount of financial responsibility.** (1) **Scope.** Owners or operators of underground storage tanks must demonstrate financial responsibility for taking remedial action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of underground storage tanks.

(2) **Amount.**

(a) **Per occurrence amounts.** Owners or operators of underground storage tanks must demonstrate financial responsibility for the types of coverage specified in subsection (1) of this section in at least the following per-occurrence amounts:

(i) For owners or operators of underground storage tanks that are located at petroleum marketing facilities, or that handle an average of more than ten thousand gallons of regulated substances per month based on annual throughput for the previous calendar year, one million dollars; and

(ii) For all other owners or operators of underground storage tanks, five hundred thousand dollars.

**(b) Annual aggregate amounts.** Owners or operators of underground storage tanks must demonstrate financial responsibility for the types of coverage specified in subsection (1) of this section in at least the following annual aggregate amounts:

(i) For owners or operators of one to one hundred underground storage tanks, one million dollars; and

(ii) For owners or operators of one hundred one or more underground storage tanks, two million dollars.

**(c) Use of separate mechanisms for different types of coverage.** Except as provided in (d) of this subsection, if the owner or operator uses separate mechanisms or separate combinations of mechanisms to demonstrate financial responsibility for the following, then the amount of assurance provided by each mechanism or combination of mechanisms must be in the full amount specified in (a) and (b) of this subsection:

(i) Taking remedial action;

(ii) Compensating third parties for bodily injury and property damage caused by sudden accidental releases; or

(iii) Compensating third parties for bodily injury and property damage caused by nonsudden accidental releases.

**(d) Use of separate mechanisms for different tanks.** If an owner or operator uses separate mechanisms or separate combinations of mechanisms to demonstrate financial responsibility for different underground storage tanks, then the annual aggregate amount required must be based on the number of tanks covered by each such separate mechanism or combination of mechanisms.

**(e) Review of aggregate amounts.** Owners or operators must review the amount of aggregate assurance provided whenever additional underground storage tanks are acquired or installed. If the number of underground storage tanks for which assurance must be provided exceeds one hundred, the owner or operator must demonstrate financial responsibility in the amount of at least two million dollars of annual aggregate assurance by the anniversary of the date on which the mechanism demonstrating financial responsibility became effective. If assurance is being demonstrated by a combination of mechanisms, the owner or operator must demonstrate financial responsibility in the amount of at least two million dollars of annual aggregate assurance by the first-occurring effective date anniversary of any one of the mechanisms combined (other than a financial test or guarantee) to provide assurance.

**(f) Amounts exclude legal costs.** The amounts of assurance required under this section exclude legal defense costs.

**(g) For the purposes of (b) and (e) of this subsection only,** "an underground storage tank" means a single containment unit and does not mean combinations of single containment units.

**(3) Liability of owner or operator.** The scope and amount of required financial responsibility specified in subsections (1) and (2) of this section do not in any way limit the liability of the owner or operator.

#### NEW SECTION

#### **WAC 173-360A-1020 Allowable mechanisms and combinations of mechanisms. (1) For all owners or opera-**

**tors.** Subject to the limitation of subsection (3) of this section, an owner or operator, including a local government owner or operator, may use any one or combination of the mechanisms listed in WAC 173-360A-1060 through 173-360A-1066 to demonstrate financial responsibility under this part for one or more underground storage tanks.

#### **(2) For only local governments owners or operators.**

Subject to the limitation of subsection (3) of this section, a local government owner or operator may also use any one or combination of the mechanisms listed in WAC 173-360A-1070 through 173-360A-1073 to demonstrate financial responsibility under this part for one or more underground storage tanks.

**(3) Limitation on combining self-insurance and guarantee.** An owner or operator may use self-insurance in combination with a guarantee only if, for the purpose of meeting the requirements of the financial test under this rule, the financial statements of the owner or operator are not consolidated with the financial statements of the guarantor.

#### NEW SECTION

#### **WAC 173-360A-1025 Substitution of mechanisms by owners or operators. (1) Authority.** An owner or operator may substitute any alternate financial assurance mechanisms as specified in this part, provided that at all times the owner or operator maintains an effective financial assurance mechanism or combination of mechanisms that satisfies the requirements of WAC 173-360A-1015.

**(2) Cancellation.** After obtaining alternate financial assurance as specified in this part, an owner or operator may cancel a financial assurance mechanism by providing notice to the provider of financial assurance in accordance with requirements for cancellation set forth for the specific mechanism in WAC 173-360A-1060 through 173-360A-1073.

#### NEW SECTION

#### **WAC 173-360A-1030 Termination of mechanisms by providers. (1) Authority.** Except as otherwise provided, a provider of financial assurance may cancel or fail to renew an assurance mechanism by sending a notice of termination by certified mail to the owner or operator.

#### **(2) Date of termination.**

**(a) Guarantee, surety bond, or letter of credit.** Termination of a local government guarantee, a guarantee, a surety bond, or a letter of credit may not occur until one hundred twenty days after the date on which the owner or operator receives the notice of termination, as evidenced by the return receipt.

**(b) Insurance or risk retention group coverage.** Termination of insurance or risk retention group coverage, except for nonpayment or misrepresentation by the insured, may not occur until sixty days after the date on which the owner or operator receives the notice of termination, as evidenced by the return receipt. Termination for nonpayment of premium or misrepresentation by the insured may not occur until a minimum of ten days after the date on which the owner or operator receives the notice of termination, as evidenced by the return receipt.

**(3) Obtaining alternate coverage.**

**(a) If provider incapacitated.** If a provider of financial assurance cancels or fails to renew for reasons of incapacity of the provider, then the owner or operator must obtain alternate coverage as specified in WAC 173-360A-1035.

**(b) If provider not incapacitated.** If a provider of financial assurance cancels or fails to renew for reasons other than incapacity of the provider, then the owner or operator must obtain alternate coverage as specified in this section within sixty days after receipt of the notice of termination. If the owner or operator fails to obtain alternate coverage within sixty days after receipt of the notice of termination, then by that date the owner or operator must notify the department of the failure and submit:

(i) The name and address of the provider of financial assurance;

(ii) The effective date of termination; and

(iii) The evidence of the financial assurance mechanism subject to the termination maintained in accordance with WAC 173-360A-1040(2).

**NEW SECTION**

**WAC 173-360A-1035 Responsibilities upon bankruptcy or other incapacity of owner or operator or provider of financial assurance.** **(1) Notifying department upon bankruptcy of owners or operators.** Within ten days after commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming an owner or operator as debtor, the owner or operator must notify the department by certified mail of such commencement and submit the evidence of financial responsibility specified in WAC 173-360A-1040(2).

**(2) Notifying owners or operators upon bankruptcy of guarantor.** Within ten days after commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming a guarantor providing financial assurance as debtor, such guarantor must notify the owner or operator by certified mail of such commencement as required under the terms of the guarantee specified in WAC 173-360A-1061.

**(3) Notifying department upon bankruptcy of local government owner or operator.** Within ten days after commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming a local government owner or operator as debtor, the local government owner or operator must notify the department by certified mail of such commencement and submit the evidence of financial responsibility specified in WAC 173-360A-1040(2).

**(4) Notifying owners or operators upon bankruptcy of guarantor providing local government assurance.** Within ten days after commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming a guarantor providing a local government financial assurance as debtor, such guarantor must notify the local government owner or operator by certified mail of such commencement as required under the terms of the guarantee specified in WAC 173-360A-1072.

**(5) Obtaining alternate financial assurance upon bankruptcy or incapacity of provider.** An owner or operator who obtains financial assurance by a mechanism other than the financial test of self-insurance will be deemed to be without the required financial assurance in the event of a bankruptcy or incapacity of its provider of financial assurance, or a suspension or revocation of the authority of the provider of financial assurance to issue a guarantee, insurance policy, risk retention group coverage policy, surety bond, or letter of credit. The owner or operator must obtain alternate financial assurance as specified in this part within thirty days after receiving notice of such an event. If the owner or operator fails to obtain alternate coverage within thirty days after such notification, then by that date the owner or operator must notify the department of the failure and submit the evidence of financial responsibility specified in WAC 173-360A-1040(2).

**NEW SECTION**

**WAC 173-360A-1040 Recordkeeping by owners and operators.** **(1) Requirement to maintain evidence.** Owners or operators must maintain evidence of all financial assurance mechanisms used to demonstrate financial responsibility under this part for an underground storage tank until released from the requirements of this part under WAC 173-360A-1010. Owners or operators must make records readily available upon request by the department.

**(2) Types of evidence required.** An owner or operator must maintain the following types of evidence of financial responsibility:

**(a) Certification of financial responsibility.** An owner or operator using an assurance mechanism specified in WAC 173-360A-1060 through 173-360A-1073 must maintain an updated copy of a certification of financial responsibility worded as set forth in WAC 173-360A-1096, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted. The owner or operator must update this certification whenever the financial assurance mechanism(s) used to demonstrate financial responsibility change(s).

**(b) Assurance mechanism instrument.** An owner or operator using an assurance mechanism specified in WAC 173-360A-1060 through 173-360A-1065 or 173-360A-1070 through 173-360A-1073 must maintain a copy of the instrument worded as specified.

**(c)** An owner or operator using a financial test or guarantee must maintain a copy of the chief financial officer's letter based on year-end financial statements for the most recent completed financial reporting year. Such evidence must be on file no later than one hundred twenty days after the close of the financial reporting year.

**(d)** An owner or operator using an insurance policy or risk retention group coverage must maintain a copy of the signed insurance policy or risk retention group coverage policy, with the endorsement or certificate of insurance and any amendments to the agreements.

**(e)** An owner or operator using a guarantee, surety bond, or letter of credit must maintain a copy of the signed standby

trust fund agreement and copies of any amendments to the agreement.

(f) A local government owner or operator using the local government bond rating test under WAC 173-360A-1070 must maintain a copy of its bond rating published within the last twelve months by Moody's or Standard & Poor's.

(g) A local government owner or operator using the local government financial test under WAC 173-360A-1071 or the local government guarantee under WAC 173-360A-1072 supported by the local government financial test must maintain a copy of the chief financial officer's letter based on year-end financial statements for the most recent completed financial reporting year. Such evidence must be on file no later than one hundred twenty days after the close of the financial reporting year.

(h) A local government owner or operator using the local government guarantee under WAC 173-360A-1072 supported by the local government bond rating test under WAC 173-360A-1070 must maintain a copy of the guarantor's bond rating published within the last twelve months by Moody's or Standard & Poor's.

(i) A local government owner or operator using the local government guarantee under WAC 173-360A-1072 (4)(a) must maintain a copy of the signed standby trust fund agreement and copies of any amendments to the agreement.

(j) An owner or operator using a local government fund under WAC 173-360A-1073 must maintain the following documents:

(i) A copy of the state constitutional provision or local government statute, charter, ordinance, or order dedicating the fund; and

(ii) Year-end financial statements for the most recent completed financial reporting year showing the amount in the fund. If the fund is established under WAC 173-360A-1073 (3)(c) using incremental funding backed by bonding authority, then the financial statements must show the previous year's balance, the amount of funding during the year, and the closing balance in the fund.

(k) An owner or operator using a local government fund established under WAC 173-360A-1073 (3)(c) using incremental funding backed by bonding authority must also maintain documentation of the required bonding authority, including either:

(i) The results of a voter referendum under WAC 173-360A-1073 (3)(c)(i); or

(ii) Attestation by the state attorney general as specified under WAC 173-360A-1073 (3)(c)(ii).

## NEW SECTION

### **WAC 173-360A-1045 Reporting by owners and operators. (1) Demonstration of financial responsibility.**

(a) **Upon application for a license.** When applying for a license for an underground storage tank, the owner or operator must submit to the department of revenue a copy of the following to demonstrate financial responsibility for the underground storage tank:

(i) Certification of financial responsibility (WAC 173-360A-1096); and

(ii) If the financial assurance mechanisms used include insurance or risk retention group coverage, then the endorsement (WAC 173-360A-1082) or certificate of insurance (WAC 173-360A-1083).

(b) **Upon renewal or substitution of financial assurances.** Upon renewal or substitution of, or any other changes to, the financial assurance mechanism(s) used to demonstrate financial responsibility, the owner or operator must immediately submit to the department of revenue an updated copy of the following:

(i) Certification of financial responsibility (WAC 173-360A-1096); and

(ii) If the financial assurance mechanism(s) used include insurance or risk retention group coverage, then the endorsement (WAC 173-360A-1082) or certificate of insurance (WAC 173-360A-1083).

(c) **Upon cancellation or termination of financial assurances.** Upon receipt of a notice of cancellation or termination of any financial assurance mechanism used to demonstrate financial responsibility, the owner or operator must immediately submit a copy of the notice to the department of revenue.

### **(2) Submission of financial responsibility records.**

(a) **Upon confirmed release.** An owner or operator must submit to the department the financial responsibility records specified in WAC 173-360A-1040(2) within thirty days after the owner or operator confirms a release from an underground storage tank required to be reported under WAC 173-360A-0750.

(b) **Upon bankruptcy of owner or operator.** An owner or operator must submit to the department the financial responsibility records specified in WAC 173-360A-1040(2) within ten days after commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming an owner or operator as debtor.

(c) **Upon failure of owner or operator to obtain alternate coverage.**

(i) **Upon failure to pass financial test.** If a self-insured owner or operator fails to meet the requirements of the applicable financial test in WAC 173-360A-1060 and fails to obtain alternate coverage by the specified date, then by that date the owner or operator must notify the department of the failure and submit the financial responsibility records specified in WAC 173-360A-1040(2).

(ii) **Upon failure to pass local government bond rating or financial test.** If a self-insured local government owner or operator fails to meet the bond rating test requirements in WAC 173-360A-1070 or the financial test requirements in WAC 173-360A-1071 and fails to obtain alternate coverage by the specified date, then by that date the local government owner or operator must notify the department of the failure and submit the financial responsibility records specified in WAC 173-360A-1040(2).

(iii) **Upon incapacity of provider.** If an owner or operator fails to obtain alternate coverage within thirty days after receiving notice of the following, then by that date the owner or operator must notify the department of the failure and submit the financial responsibility records specified in WAC 173-360A-1040(2):

(A) Commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming a provider of financial assurance as a debtor;

(B) Suspension or revocation of the authority of a provider of financial assurance to issue a financial assurance mechanism;

(C) Failure of a guarantor to meet the requirements of WAC 173-360A-1061;

(D) Failure of a local government guarantor to meet the requirements of WAC 173-360A-1072; or

(E) Other incapacity of a provider of financial assurance.

(iv) **Upon other termination by provider.** If a provider cancels or fails to renew a financial assurance mechanism for reasons other than incapacity and the owner or operator fails to obtain alternate coverage within sixty days after receiving notice of termination by the provider, then by that date the owner or operator must notify the department of the failure and submit the information required in WAC 173-360A-1030(3)(b).

(3) **Requests by department.** The department may require an owner or operator to submit the financial responsibility records specified in WAC 173-360A-1040(2) or other information relevant to compliance with this part at any time.

## NEW SECTION

### **WAC 173-360A-1050 Use of standby trusts.** (1)

**Funding of trust.** Except as specified in WAC 173-360A-1055, the department must require the guarantor, surety, or institution issuing a letter of credit to place the amount of funds stipulated by the department, up to the limit of funds provided by the financial assurance mechanism, into the standby trust if:

(a) The following conditions are satisfied:

(i) The owner or operator fails to establish alternate financial assurance within sixty days after receiving notice of cancellation of the guarantee, surety bond, letter of credit, or, as applicable, other financial assurance mechanism; and

(ii) The department determines or suspects that a release from an underground storage tank covered by the mechanism has occurred and so notifies the owner or operator or the owner or operator has notified the department pursuant to Part 7 of this chapter of a release from an underground storage tank covered by the mechanism; or

(b) The conditions of subsection (2)(a), (b)(i) or (ii) of this section are satisfied.

(2) **Drawing on trust.** The department may draw on a standby trust fund when:

(a) The department makes a final determination that a release has occurred and immediate or long-term remedial action for the release is needed, and the owner or operator, after appropriate notice and opportunity to comply, has not conducted remedial action as required under WAC 173-360A-0750; or

(b) The department has received either:

(i) Certification from the owner or operator and the third-party liability claimant(s) and from attorneys representing the owner or operator and the third-party liability claimant(s) that a third-party liability claim should be paid. The certification must be worded as set forth in WAC 173-360A-1097, except

that instructions in brackets are to be replaced with the relevant information and the brackets deleted; or

(ii) A valid final court order establishing a judgment against the owner or operator for bodily injury or property damage caused by an accidental release from an underground storage tank covered by financial assurance under this part and the department determines that the owner or operator has not satisfied the judgment.

(3) **Priority of payments.** If the department determines that the amount of remedial action costs and third-party liability claims eligible for payment under subsection (2) of this section may exceed the balance of the standby trust fund and the obligation of the provider of financial assurance, the first priority for payment must be remedial action costs necessary to protect human health and the environment. The department must pay third-party liability claims in the order in which the department receives certifications under subsection (2)(b)(i) of this section and valid court orders under subsection (2)(b)(ii) of this section.

### **(4) Replenishment of mechanisms.**

(a) **General.** If at any time after a standby trust is funded upon the instruction of the department with funds drawn from a guarantee, local government guarantee with standby trust, letter of credit, or surety bond, and the amount in the standby trust is reduced below the full amount of coverage required, then the owner or operator must by the anniversary date of the financial mechanism from which the funds were drawn:

(i) Replenish the value of financial assurance to equal the full amount of coverage required under WAC 173-360A-1015(2); or

(ii) Acquire another financial assurance mechanism for the amount by which funds in the standby trust have been reduced.

(b) **Combination of mechanisms.** If a combination of mechanisms was used to provide the assurance funds which were drawn upon, then the owner or operator must take the actions required under (a)(i) or (ii) of this subsection by the earliest anniversary date among the mechanisms.

(5) **Refunding of trust balance to providers.** The department will instruct the trustee to refund the balance of the standby trust fund to the provider of financial assurance if the department determines that no additional remedial action costs or third-party liability claims will occur as a result of a release covered by the financial assurance mechanism for which the standby trust fund was established.

## NEW SECTION

### **WAC 173-360A-1055 Use of local government guarantees without standby trusts.** A governmental entity acting as guarantor without a standby trust under WAC 173-360A-1072 (4)(c) or (d) must make payments as directed by the department under the circumstances described in WAC 173-360A-1050 (1) through (3).

## NEW SECTION

### **WAC 173-360A-1060 Mechanism—Financial test of self-insurance.** (1) **Applicability of mechanism.** An owner or operator, and/or guarantor, may satisfy the requirements of

WAC 173-360A-1015 by passing a financial test as specified in this section.

(2) **Financial test requirements.** To pass the financial test of self-insurance, the owner or operator, and/or guarantor must meet the criteria of (a) or (b) of this subsection based on year-end financial statements for the latest completed fiscal year.

**(a) First test.**

(i) The owner or operator, and/or guarantor, must have a tangible net worth of at least ten times:

(A) The total of the applicable aggregate amount required by WAC 173-360A-1015, based on the number of underground storage tanks for which a financial test is used to demonstrate financial responsibility to the department under this section;

(B) The sum of the corrective action cost estimates, the current closure and post-closure care cost estimates, and amount of liability coverage for which a financial test is used to demonstrate financial responsibility to the U.S. Environmental Protection Agency (EPA) under 40 C.F.R. Parts 264.101, 264.143, 264.145, 265.143, 265.145, 264.147, and 265.147 or to a state agency under a state program authorized by EPA under Part 271; and

(C) The sum of current plugging and abandonment cost estimates for which a financial test is used to demonstrate financial responsibility to the U.S. Environmental Protection Agency (EPA) under 40 C.F.R. Part 144.63 or to a state agency under a state program authorized by EPA under 40 C.F.R. Part 145.

**Note:** Titles of the above-referenced C.F.R. citations are as follows:

Part 264.101 - Corrective action for solid waste management units; Part 264.143 - Financial assurance for closure; Part 264.145 - Financial assurance for post-closure care; Part 265.143 - Financial assurance for closure; Part 265.145 - Financial assurance for post-closure care; Part 264.147 - Liability requirements; Part 265.147 - Liability requirements; Part 144.63 - Financial assurance for plugging and abandonment; and Part 145 - State UIC program requirements.

(ii) The owner or operator, and/or guarantor, must have a tangible net worth of at least ten million dollars.

(iii) The owner or operator, and/or guarantor, must have a letter signed by the chief financial officer as specified in subsection (3) of this section and as set forth in WAC 173-360A-1080.

(iv) The owner or operator, and/or guarantor, must either:

(A) File financial statements annually with the U.S. Securities and Exchange Commission, the Energy Information Administration, or the Rural Utilities Service; or

(B) Report annually the firm's tangible net worth to Dun and Bradstreet, and Dun and Bradstreet must have assigned the firm a financial strength rating of 4A or 5A.

(v) The firm's year-end financial statements, if independently audited, cannot include an adverse auditor's opinion, a disclaimer of opinion, or a "going concern" qualification.

**(b) Second test.**

(i) The owner or operator, and/or guarantor must meet the financial test requirements of 40 C.F.R. 264.147(f)(1), substituting the appropriate amounts specified in WAC 173-

360A-1015 (2)(b)(i) and (ii) for the "amount of liability coverage" each time specified in that section.

(ii) The fiscal year-end financial statements of the owner or operator, and/or guarantor, must be examined by an independent certified public accountant and be accompanied by the accountant's report of the examination.

(iii) The firm's year-end financial statements cannot include an adverse auditor's opinion, a disclaimer of opinion, or a "going concern" qualification.

(iv) The owner or operator, and/or guarantor, must have a letter signed by the chief financial officer, worded as specified in subsection (3) of this section and as set forth in WAC 173-360A-1080.

(v) If the financial statements of the owner or operator, and/or guarantor, are not submitted annually to the U.S. Securities and Exchange Commission, the Energy Information Administration or the Rural Utilities Service, the owner or operator, and/or guarantor, must obtain a special report by an independent certified public accountant stating that:

(A) He or she has compared the data that the letter from the chief financial officer specifies as having been derived from the latest year-end financial statements of the owner or operator, and/or guarantor, with the amounts in such financial statements; and

(B) In connection with that comparison, no matters came to his attention which caused him to believe that the specified data should be adjusted.

(3) **Letter from chief financial officer.** To demonstrate that it meets the financial test under subsection (2)(a) or (b) of this section, the chief financial officer of the owner or operator, and/or guarantor, must sign, within one hundred twenty days of the close of each financial reporting year, as defined by the twelve-month period for which financial statements used to support the financial test are prepared, a letter worded exactly as set forth in WAC 173-360A-1080, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted.

(4) **Obtaining alternate coverage if fail test.** If an owner or operator using the test to provide financial assurance finds that he or she no longer meets the requirements of the financial test based on the year-end financial statements, the owner or operator must obtain alternate coverage within one hundred fifty days of the end of the year for which financial statements have been prepared.

(5) **Requests by department and findings of failure.** The department may require reports of financial condition at any time from the owner or operator, and/or guarantor. If the department finds, on the basis of such reports or other information, that the owner or operator, and/or guarantor, no longer meets the financial test requirements of subsections (2)(a) or (b) and (3) of this section, the owner or operator must obtain alternate coverage within thirty days after notification of such a finding.

(6) **Notification of department if fail to obtain alternate coverage.** If the owner or operator fails to obtain alternate coverage within one hundred fifty days of finding that he or she no longer meets the requirements of the financial test based on the year-end financial statements, or within thirty days of notification by the department that he or she no longer meets the requirements of the financial test, then by that

date the owner or operator must notify the department of such failure and submit the evidence of financial responsibility specified in WAC 173-360A-1040(2).

#### NEW SECTION

##### **WAC 173-360A-1061 Mechanism—Guarantee.** (1)

**Applicability of mechanism.** An owner or operator may satisfy the requirements of WAC 173-360A-1015 by obtaining a guarantee that conforms to the requirements of this section.

(2) **Eligibility of guarantor.** The guarantor must be:

(a) A firm that:

(i) Possesses a controlling interest in the owner or operator;

(ii) Possesses a controlling interest in a firm described under (a)(i) of this subsection; or

(iii) Is controlled through stock ownership by a common parent firm that possesses a controlling interest in the owner or operator; or

(b) A firm engaged in a substantial business relationship with the owner or operator and issuing the guarantee as an act incident to that business relationship.

(3) **Financial test of guarantor.** Within one hundred twenty days of the close of each financial reporting year the guarantor must demonstrate that it meets the financial test criteria of WAC 173-360A-1060 based on year-end financial statements for the latest completed financial reporting year by completing the letter from the chief financial officer described in WAC 173-360A-1060(3) and must deliver the letter to the owner or operator.

(4) **Responsibilities upon failure of test.** If the guarantor fails to meet the requirements of the financial test at the end of any financial reporting year, within one hundred twenty days of the end of that financial reporting year the guarantor must send by certified mail, before cancellation or nonrenewal of the guarantee, notice to the owner or operator. If the department notifies the guarantor that the guarantor no longer meets the requirements of the financial test of WAC 173-360A-1060 (2)(a) or (b) and (3), the guarantor must notify the owner or operator within ten days of receiving such notification from the department. In both cases, the guarantee will terminate no less than one hundred twenty days after the date the owner or operator receives the notification, as evidenced by the return receipt. The owner or operator must obtain alternate coverage as specified in WAC 173-360A-1035(5).

(5) **Content of guarantee.** The guarantee must be worded as set forth in WAC 173-360A-1081, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

(6) **Standby trust.** An owner or operator who uses a guarantee to satisfy the requirements of WAC 173-360A-1015 must establish a standby trust fund when the guarantee is obtained. Under the terms of the guarantee, all amounts paid by the guarantor under the guarantee will be deposited directly into the standby trust fund in accordance with instructions from the department under WAC 173-360A-1050. This standby trust fund must meet the requirements specified in WAC 173-360A-1066.

#### NEW SECTION

**WAC 173-360A-1062 Mechanism—Insurance and risk retention group coverage.** (1) **Applicability of mechanism.** An owner or operator may satisfy the requirements of WAC 173-360A-1015 by obtaining liability insurance that conforms to the requirements of this section from a qualified insurer or risk retention group. Such insurance may be in the form of a separate insurance policy or an endorsement to an existing insurance policy.

(2) **Eligibility of provider.** Each insurance policy must be issued by an insurer or a risk retention group that, at a minimum, is licensed to transact the business of insurance or eligible to provide insurance as an excess or surplus lines insurer in one or more states.

(3) **Content of policy.** Each insurance policy must be amended by an endorsement worded as specified in WAC 173-360A-1082 or evidenced by a certificate of insurance worded as specified in WAC 173-360A-1083, except that instructions in brackets must be replaced with the relevant information and the brackets deleted. Each insurance policy must cover a claim arising from an accidental release arising from the operation of underground storage tanks, regardless of how the release was discovered or identified. No endorsement may amend an insurance policy to restrict coverage of such a claim based on the how the release was discovered or identified.

#### NEW SECTION

##### **WAC 173-360A-1063 Mechanism—Surety bond.** (1)

**Applicability of mechanism.** An owner or operator may satisfy the requirements of WAC 173-360A-1015 by obtaining a surety bond that conforms to the requirements of this section.

(2) **Eligibility of surety.** The surety company issuing the bond must be among those listed as acceptable sureties on federal bonds in the latest Circular 570 of the U.S. Department of the Treasury.

(3) **Content of surety bond.** The surety bond must be worded as set forth in WAC 173-360A-1084, except that instructions in brackets must be replaced with the relevant information and the brackets deleted.

(4) **Liability of surety.** Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond. In all cases, the surety's liability is limited to the per-occurrence and annual aggregate penal sums.

(5) **Standby trust.** The owner or operator who uses a surety bond to satisfy the requirements of WAC 173-360A-1015 must establish a standby trust fund when the surety bond is acquired. Under the terms of the bond, all amounts paid by the surety under the bond will be deposited directly into the standby trust fund in accordance with instructions from the department under WAC 173-360A-1050. This standby trust fund must meet the requirements specified in WAC 173-360A-1066.

NEW SECTION**WAC 173-360A-1064 Mechanism—Letter of credit.**

(1) **Applicability of mechanism.** An owner or operator may satisfy the requirements of WAC 173-360A-1015 by obtaining an irrevocable standby letter of credit that conforms to the requirements of this section.

(2) **Eligibility of issuing institution.** The issuing institution must be an entity that has the authority to issue letters of credit in Washington state and whose letter-of-credit operations are regulated and examined by a federal or state agency.

(3) **Content of letter of credit.** The letter of credit must be worded as set forth in WAC 173-360A-1085, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

(4) **Term of letter of credit.** The letter of credit must be irrevocable with a term specified by the issuing institution. The letter of credit must provide that credit be automatically renewed for the same term as the original term, unless, at least one hundred twenty days before the current expiration date, the issuing institution notifies the owner or operator by certified mail of its decision not to renew the letter of credit. Under the terms of the letter of credit, the one hundred twenty days will begin on the date when the owner or operator receives the notice, as evidenced by the return receipt.

(5) **Standby trust.** An owner or operator who uses a letter of credit to satisfy the requirements of WAC 173-360A-1015 must also establish a standby trust fund when the letter of credit is acquired. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the department will be deposited by the issuing institution directly into the standby trust fund in accordance with instructions from the department under WAC 173-360A-1050. This standby trust fund must meet the requirements specified in WAC 173-360A-1066.

NEW SECTION**WAC 173-360A-1065 Mechanism—Trust fund (1)**

**Applicability of mechanism.** An owner or operator may satisfy the requirements of WAC 173-360A-1015 by establishing a trust fund that conforms to the requirements of this section.

(2) **Eligibility of trustee.** The trustee must be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal agency or an agency of the state in which the fund is established.

(3) **Content of trust agreement.** The wording of the trust agreement must be identical to the wording specified in WAC 173-360A-1086, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

(4) **Certification of acknowledgment.** The trust agreement must be accompanied by a formal certification of acknowledgment worded as specified in WAC 173-360A-1087, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

(5) **Amount of required funding.** The trust fund, when established, must be funded for the full required amount of coverage, or funded for part of the required amount of cover-

age and used in combination with other mechanism(s) that provide the remaining required coverage.

(6) **Release of excess funds.**

(a) **Requests.**

(i) If the value of the trust fund is greater than the required amount of coverage, the owner or operator may submit a written request to the department for release of the excess.

(ii) If other financial assurance as specified in this part is substituted for all or part of the trust fund, the owner or operator may submit a written request to the department for release of the excess.

(b) **Response by department.** Within sixty days after receiving a request from the owner or operator for release of funds as specified in (a)(i) or (ii) of this subsection, the department will instruct the trustee to release to the owner or operator such funds as the department specifies in writing.

NEW SECTION**WAC 173-360A-1066 Mechanism—Standby trust fund.**

(1) **Applicability of mechanism.** An owner or operator using any one of the mechanisms authorized by WAC 173-360A-1061, 173-360A-1063, or 173-360A-1064 must establish a standby trust fund when the mechanism is acquired.

(2) **Eligibility of trustee.** The trustee of the standby trust fund must be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal agency or an agency of the state in which the fund is established.

(3) **Content of trust agreement.** The standby trust agreement or trust agreement must be worded as set forth in WAC 173-360A-1086, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

(4) **Certification of acknowledgment.** The standby trust agreement or trust agreement must be accompanied by a formal certification of acknowledgment worded as specified in WAC 173-360A-1087, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

(5) **Use of trust as depository for multiple assurances.** An owner or operator may establish one trust fund as the depository mechanism for all funds assured in compliance with this rule.

NEW SECTION

**WAC 173-360A-1070 Mechanism—Local government bond rating test.** (1) **Applicability of mechanism.** A local government owner or operator and/or local government serving as a guarantor may satisfy the requirements of WAC 173-360A-1015 by meeting the bond rating test requirements in subsection (2) of this section.

(2) **Bond rating test requirements.**

(a) **General purpose local governments.** To pass the bond rating test, a general purpose local government owner or operator and/or local government must have a currently outstanding issue or issues of general obligation bonds of one million dollars or more, excluding refunded obligations, with

a Moody's rating of Aaa, Aa, A, or Baa, or a Standard & Poor's rating of AAA, AA, A, or BBB. Where a local government has multiple outstanding issues, or where a local government's bonds are rated by both Moody's and Standard & Poor's, the lowest rating must be used to determine eligibility. Bonds that are backed by credit enhancement other than municipal bond insurance may not be considered in determining the amount of applicable bonds outstanding.

(b) **Nongeneral purpose local governments.** To pass the bond rating test, a local government owner or operator or local government that is not a general-purpose local government and does not have the legal authority to issue general obligation bonds must have a currently outstanding issue or issues of revenue bonds of one million dollars or more, excluding refunded issues, and by also having a Moody's rating of Aaa, Aa, A, or Baa, or a Standard & Poor's rating of AAA, AA, A, or BBB as the lowest rating for any rated revenue bond issued by the local government. Where bonds are rated by both Moody's and Standard & Poor's, the lower rating for each bond must be used to determine eligibility. Bonds that are backed by credit enhancement may not be considered in determining the amount of applicable bonds outstanding.

**(3) Letter from chief financial officer.**

(a) **General purpose local governments.** To demonstrate that it meets the local government bond rating test, the chief financial officer of a general purpose local government owner or operator and/or guarantor must sign a letter worded exactly as specified in WAC 173-360A-1088, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted.

(b) **Nongeneral purpose local governments.** To demonstrate that it meets the local government bond rating test, the chief financial officer of local government owner or operator and/or guarantor other than a general purpose government must sign a letter worded exactly as specified in WAC 173-360A-1089, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted.

(4) **Maintaining records of bond rating.** The local government owner or operator and/or guarantor must maintain a copy of its bond rating published within the last twelve months by Moody's or Standard & Poor's.

(5) **Obtaining alternate coverage if fail test.** If a local government owner or operator using the bond rating test to provide financial assurance finds that it no longer meets the bond rating test requirements, then the local government owner or operator must obtain alternate coverage within one hundred fifty days of the change in status.

(6) **Requests by department and findings of failure.** The department may require reports of financial condition at any time from the local government owner or operator, and/or local government guarantor. If the department finds, on the basis of such reports or other information, that the local government owner or operator, and/or guarantor, no longer meets the local government bond rating test requirements of this section, the local government owner or operator must obtain alternate coverage within thirty days after notification of such a finding.

(7) **Notification of department if fail to obtain alternate coverage.** If a local government owner or operator fails to obtain alternate coverage within one hundred fifty days of finding that it no longer meets the requirements of the bond rating test or within thirty days of notification by the department that it no longer meets the requirements of the bond rating test, then by that date the owner or operator must notify the department of such failure and submit the evidence of financial responsibility specified in WAC 173-360A-1040(2).

**NEW SECTION**

**WAC 173-360A-1071 Mechanism—Local government financial test.** (1) **Applicability of mechanism.** A local government owner or operator may satisfy the requirements of WAC 173-360A-1015 by passing the financial test specified in this section.

(2) **Eligibility requirements.** To be eligible to use the financial test, the local government owner or operator must have the ability and authority to assess and levy taxes or to freely establish fees and charges.

(3) **Financial test requirements.** To pass the local government financial test, the owner or operator must meet the following criteria based on year-end financial statements for the latest completed fiscal year:

(a) The local government's year-end financial statements, if independently audited, cannot include an adverse auditor's opinion or a disclaimer of opinion;

(b) The local government cannot have outstanding issues of general obligation or revenue bonds that are rated as less than investment grade; and

(c) The local government owner or operator must have a letter signed by the chief financial officer worded as specified in WAC 173-360A-1090.

(4) **Financial information requirements.** The local government owner or operator must have the following information available, as shown in the year-end financial statements for the latest completed fiscal year:

(a) **Total revenues,** consisting of the sum of general fund operating and nonoperating revenues including net local taxes, licenses and permits, fines and forfeitures, revenues from use of money and property, charges for services, investment earnings, sales (property, publications, etc.), intergovernmental revenues (restricted and unrestricted), and total revenues from all other governmental funds including enterprise, debt service, capital projects, and special revenues, but excluding revenues to funds held in a trust or agency capacity. For purposes of this test, the calculation of total revenues excludes all transfers between funds under the direct control of the local government using the financial test (interfund transfers), liquidation of investments, and issuance of debt;

(b) **Total expenditures,** consisting of the sum of general fund operating and nonoperating expenditures including public safety, public utilities, transportation, public works, environmental protection, cultural and recreational, community development, revenue sharing, employee benefits and compensation, office management, planning and zoning, capital projects, interest payments on debt, payments for retirement of debt principal, and total expenditures from all other gov-

ernmental funds including enterprise, debt service, capital projects, and special revenues. For purposes of this test, the calculation of total expenditures excludes all transfers between funds under the direct control of the local government using the financial test (interfund transfers);

(c) **Local revenues**, consisting of total revenues (as defined in (a) of this subsection) minus the sum of all transfers from other governmental entities, including all monies received from federal, state, or local government sources;

(d) **Debt service**, consisting of the sum of all interest and principal payments on all long-term credit obligations and all interest-bearing short-term credit obligations. Includes interest and principal payments on general obligation bonds, revenue bonds, notes, mortgages, judgments, and interest bearing warrants. Excludes payments on noninterest-bearing short-term obligations, interfund obligations, amounts owed in a trust or agency capacity, and advances and contingent loans from other governments;

(e) **Total funds**, consisting of the sum of cash and investment securities from all funds, including general, enterprise, debt service, capital projects, and special revenue funds, but excluding employee retirement funds, at the end of the local government's financial reporting year. Includes federal securities, federal agency securities, state and local government securities, and other securities such as bonds, notes and mortgages. For purposes of this test, the calculation of total funds excludes agency funds, private trust funds, accounts receivable, value of real property, and other non-security assets; and

(f) **Population**, consisting of the number of people in the area served by the local government.

(5) **Letter from chief financial officer.** To demonstrate that it meets the financial test under subsection (3) of this section, the chief financial officer of the local government owner or operator, must sign, within one hundred twenty days of the close of each financial reporting year, as defined by the twelve-month period for which financial statements used to support the financial test are prepared, a letter worded exactly as specified in WAC 173-360A-1090, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted.

(6) **Obtaining alternate coverage if fail test.** If a local government owner or operator using the test to provide financial assurance finds that it no longer meets the requirements of the financial test based on the year-end financial statements, the owner or operator must obtain alternate coverage within one hundred fifty days of the end of the year for which financial statements have been prepared.

(7) **Requests by department and findings of failure.** The department may require reports of financial condition at any time from the local government owner or operator. If the department finds, on the basis of such reports or other information, that the local government owner or operator no longer meets the financial test requirements of subsection (3) of this section, the owner or operator must obtain alternate coverage within thirty days after notification of such a finding.

(8) **Notification of department if fail to obtain alternate coverage.** If a local government owner or operator fails to obtain alternate coverage within one hundred fifty days of finding that it no longer meets the requirements of the finan-

cial test based on the year-end financial statements or within thirty days of notification by the department that it no longer meets the requirements of the financial test, then by that date the owner or operator must notify the department of such failure and submit the evidence of financial responsibility specified in WAC 173-360A-1040(2).

## NEW SECTION

**WAC 173-360A-1072 Mechanism—Local government guarantee.** (1) **Applicability of mechanism.** A local government owner or operator may satisfy the requirements of WAC 173-360A-1015 by obtaining a guarantee that conforms to the requirements of this section.

(2) **Eligibility of guarantor.** The guarantor must be either the state in which the local government owner or operator is located or a local government having a "substantial governmental relationship" with the owner and operator and issuing the guarantee as an act incident to that relationship.

(3) **Test of guarantor.** A local government acting as the guarantor must:

(a) Demonstrate that it meets the bond rating test requirements of WAC 173-360A-1070 and deliver a copy of the chief financial officer's letter as required in WAC 173-360A-1070(3) to the local government owner or operator;

(b) Demonstrate that it meets the financial test requirements of WAC 173-360A-1071 and deliver a copy of the chief financial officer's letter as required in WAC 173-360A-1071(5) to the local government owner or operator; or

(c) Demonstrate that it meets the local government fund requirements of WAC 173-360A-1073 and deliver a copy of the chief financial officer's letter as required in WAC 173-360A-1073(4) to the local government owner or operator.

(4) **Content of guarantee.** The content of the guarantee depends on whether the guarantor is a state or a local government and whether the guarantor guarantees to fund a standby trust.

(a) If the guarantor is a state and, in the default or incapacity of the owner or operator, the guarantor guarantees to fund a standby trust as directed by the department, then the guarantee must be worded as specified in WAC 173-360A-1091, except that instructions in brackets are to be replaced with relevant information and the brackets deleted.

(b) If the guarantor is a local government and, in the default or incapacity of the owner or operator, the guarantor guarantees to fund a standby trust as directed by the department, then the guarantee must be worded as specified in WAC 173-360A-1092, except that instructions in brackets are to be replaced with relevant information and the brackets deleted.

(c) If the guarantor is a state and, in the default or incapacity of the owner or operator, the guarantor guarantees to make payments as directed by the department for taking remedial action or compensating third parties for bodily injury and property damage, then the guarantee must be worded as specified in WAC 173-360A-1093, except that instructions in brackets are to be replaced with relevant information and the brackets deleted.

(d) If the guarantor is a local government and, in the default or incapacity of the owner or operator, the guarantor

guarantees to make payments as directed by the department for taking remedial action or compensating third parties for bodily injury and property damage, then the guarantee must be worded as specified in WAC 173-360A-1094, except that instructions in brackets are to be replaced with relevant information and the brackets deleted.

**(5) Responsibilities upon failure of test.** If the local government guarantor is unable to demonstrate financial assurance under WAC 173-360A-1070, 173-360A-1071, or 173-360A-1073, at the end of the financial reporting year, then the guarantor must send by certified mail, before cancellation or nonrenewal of the guarantee, notice to the owner or operator. The guarantee will terminate no less than one hundred twenty days after the date the owner or operator receives the notification, as evidenced by the return receipt. The owner or operator must obtain alternate coverage as specified in WAC 173-360A-1035(5).

#### NEW SECTION

**WAC 173-360A-1073 Mechanism—Local government fund.** (1) **Applicability of mechanism.** A local government owner or operator may satisfy the requirements of WAC 173-360A-1015 by establishing a dedicated fund account that conforms to the requirements of this section.

**(2) Restrictions on commingled funds.** Except as specified in subsection (3)(b) of this section, a dedicated fund may not be commingled with other funds or otherwise used in normal operations.

**(3) Local government fund requirements.** To be considered eligible, a dedicated fund must meet one of the following requirements:

(a) The fund is dedicated by state constitutional provision, or local government statute, charter, ordinance, or order to pay for taking remedial action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of underground storage tanks and is funded for the full amount of coverage required under WAC 173-360A-1015, or funded for part of the required amount of coverage and used in combination with other mechanism(s) that provide the remaining coverage;

(b) The fund is dedicated by state constitutional provision, or local government statute, charter, ordinance, or order as a contingency fund for general emergencies, including taking remedial action and compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of underground storage tanks, and is funded for five times the full amount of coverage required under WAC 173-360A-1015, or funded for part of the required amount of coverage and used in combination with other mechanism(s) that provide the remaining coverage. If the fund is funded for less than five times the amount of coverage required under WAC 173-360A-1015, the amount of financial responsibility demonstrated by the fund may not exceed one-fifth the amount in the fund; or

(c) The fund is dedicated by state constitutional provision, or local government statute, charter, ordinance or order to pay for taking remedial action and for compensating third parties for bodily injury and property damage caused by acci-

dental releases arising from the operation of underground storage tanks. A payment must be made to the fund once every year for seven years until the fund is fully funded. This seven year period is hereafter referred to as the "pay-in-period." Equation 1073-1 must be used to determine the amount of each payment; and

<b>Equation 1073-1</b>
Payment amount = $\frac{TY - CF}{Y}$
Where:

TY = The total required financial assurance for the owner or operator  
CF = The current amount in the fund  
Y = Number of years remaining in the pay period

(i) The local government owner or operator has available bonding authority, approved through voter referendum (if such approval is necessary prior to the issuance of bonds), for an amount equal to the difference between the required amount of coverage and the amount held in the dedicated fund. This bonding authority must be available for taking remedial action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of underground storage tanks; or

(ii) The local government owner or operator has a letter signed by the appropriate state attorney general stating that the use of the bonding authority will not increase the local government's debt beyond the legal debt ceilings established by the relevant state laws. The letter must also state that prior voter approval is not necessary before use of the bonding authority.

**(4) Letter from chief financial officer.** To demonstrate that it meets the requirements of the local government fund, the chief financial officer of the local government owner or operator and/or guarantor must sign a letter worded exactly as specified in WAC 173-360A-1095, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted.

#### NEW SECTION

**WAC 173-360A-1080 Appendix A—Letter from chief financial officer.**

I am the chief financial officer of [insert: name and address of the owner or operator, or guarantor]. This letter is in support of the use of [insert: "the financial test of self-insurance," and/or "guarantee"] to demonstrate financial responsibility for [insert: "taking remedial action" and/or "compensating third parties for bodily injury and property damage"] caused by [insert: "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"] in the amount of at least [insert: dollar amount] per occurrence and [insert: dollar amount] annual aggregate arising from operating (an) underground storage tank(s).

Underground storage tanks at the following facilities are assured by this financial test by this [insert: "owner or operator," and/or "guarantor"]: [List for each facility: The name and address of the facility where tanks assured by this finan-

cial test are located, and whether tanks are assured by this financial test. If separate mechanisms or combinations of mechanisms are being used to assure any of the tanks at this facility, list each tank assured by this financial test by the tank identification number provided in the notification submitted pursuant to WAC 173-360A-0200.]

A [insert: "financial test," and/or "guarantee"] is also used by this [insert: "owner or operator," or "guarantor"] to demonstrate evidence of financial responsibility in the following amounts under other U.S. Environmental Protection Agency (EPA) regulations or state programs authorized by EPA under 40 C.F.R. Parts 271 and 145:

#### EPA Regulations

	<b>Amount</b>
Closure (264.143 and 265.143) .....	\$ _____
Post-Closure Care (264.145 and 265.145) .....	\$ _____
Liability Coverage (264.147 and 265.147) .....	\$ _____
Corrective Action (264.101(b)) .....	\$ _____
Plugging and Abandonment (144.63) .....	\$ _____

#### Authorized State Programs

	<b>Amount</b>
Closure .....	\$ _____
Post-Closure Care .....	\$ _____
Liability Coverage .....	\$ _____
Plugging and Abandonment .....	\$ _____
<b>Total</b> .....	\$ _____

This [insert: "owner or operator," or "guarantor"] has not received an adverse opinion, a disclaimer of opinion, or a "going concern" qualification from an independent auditor on his financial statements for the latest completed fiscal year.

[Fill in the information for Alternative I if the criteria of WAC 173-360A-1060 (2)(a) are being used to demonstrate compliance with the financial test requirements. Fill in the information for Alternative II if the criteria of WAC 173-360A-1060 (2)(b) are being used to demonstrate compliance with the financial test requirements.]

#### Alternative I

1.	Amount of annual UST aggregate coverage being assured by a financial test, and/or guarantee	\$ _____
2.	Amount of corrective action, closure and post-closure care costs, liability coverage, and plugging and abandonment costs covered by a financial test, and/or guarantee	\$ _____
3.	Sum of lines 1 and 2	\$ _____
4.	Total tangible assets	\$ _____
5.	Total liabilities [if any of the amount reported on line 3 is included in total liabilities, you may deduct that amount from this line and add that amount to line 6]	\$ _____
6.	Tangible net worth [subtract line 5 from line 4]	\$ _____
7.	Is line 6 at least \$10 million?	Yes <input type="checkbox"/> No <input type="checkbox"/>
8.	Is line 6 at least 10 times line 3?	Yes <input type="checkbox"/> No <input type="checkbox"/>
9.	Have financial statements for the latest fiscal year been filed with the U.S. Securities and Exchange Commission?	Yes <input type="checkbox"/> No <input type="checkbox"/>
10.	Have financial statements for the latest fiscal year been filed with the Energy Information Administration?	Yes <input type="checkbox"/> No <input type="checkbox"/>
11.	Have financial statements for the latest fiscal year been filed with the Rural Utilities Service?	Yes <input type="checkbox"/> No <input type="checkbox"/>
12.	Has financial information been provided to Dun and Bradstreet, and has Dun and Bradstreet provided a financial strength rating of 4A or 5A? [Answer "Yes" only if both criteria have been met]	Yes <input type="checkbox"/> No <input type="checkbox"/>

#### Alternative II

1.	Amount of annual UST aggregate coverage being assured by a financial test, and/or guarantee	\$ _____
2.	Amount of corrective action, closure and post-closure care costs, liability coverage, and plugging and abandonment costs covered by a financial test, and/or guarantee	\$ _____
3.	Sum of lines 1 and 2	\$ _____

4.	Total tangible assets	\$ _____
5.	Total liabilities [if any of the amount reported on line 3 is included in total liabilities, you may deduct that amount from this line and add that amount to line 6]	\$ _____
6.	Tangible net worth [subtract line 5 from line 4]	\$ _____
7.	Total assets in the U.S. [required only if less than 90 percent of assets are located in the U.S.]	\$ _____
8.	Is line 6 at least \$10 million?	Yes _____ No _____
9.	Is line 6 at least 6 times line 3?	Yes _____ No _____
10.	Are at least 90 percent of assets located in the U.S.? [If "No," complete line 11]	Yes _____ No _____
11.	Is line 7 at least 6 times line 3?	Yes _____ No _____
[Fill in either lines 12-15 or lines 16-18:]		
12.	Current assets	\$ _____
13.	Current liabilities	\$ _____
14.	Net working capital [subtract line 13 from line 12]	\$ _____
15.	Is line 14 at least 6 times line 3?	Yes _____ No _____
16.	Current bond rating of most recent bond issue	_____
17.	Name of rating service	_____
18.	Date of maturity of bond	_____
19.	Have financial statements for the latest fiscal year been filed with the U.S. Securities and Exchange Commission, the Energy Information Administration, or the Rural Utilities Service? [If "No," please attach a report from an independent certified public accountant certifying that there are no material differences between the data as reported in lines 4-18 above and the financial statements for the latest fiscal year.]	Yes _____ No _____

[For both Alternative I and Alternative II complete the certification with this statement.]

I hereby certify that the wording of this letter is identical to the wording specified in WAC 173-360A-1080 as such regulations were constituted on the date shown immediately below.

[Signature]  
 [Name]  
 [Title]  
 [Date]

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

#### NEW SECTION

#### **WAC 173-360A-1081 Appendix B—Guarantee.**

Guarantee made this [date] by name of guaranteeing entity, a business entity organized under the laws of (name of state), herein referred to as Guarantor, to the Washington State Department of Ecology and to any and all third parties, and obligees, on behalf of [owner or operator] of [business address].

#### *Recitals*

1. Guarantor meets or exceeds the financial test criteria of WAC 173-360A-1060 (2)(a) or (b) and (3) and agrees to comply with the requirements for guarantors as specified in WAC 173-360A-1061(3).

2. [Owner or operator] owns or operates the following underground storage tank(s) covered by this Guarantee: [List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to WAC 173-360A-0200, and the name and address of the facility.] This Guarantee satisfies the requirements of Part 10 of chapter 173-360A WAC for assuring funding for [insert: "Taking remedial action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the above-identified underground storage tank(s) in the amount of [insert dollar amount] per occurrence and [insert dollar amount] annual aggregate.

3. [Insert appropriate phrase: "On behalf of our subsidiary" (if Guarantor is corporate parent of the owner or operator); "On behalf of our affiliate" (if Guarantor is a related firm of the owner or operator); or "Incident to our business relationship with" (if Guarantor is providing the Guarantee as an incident to a substantial business relationship with owner or operator)] [owner or operator], Guarantor guarantees to the Washington State Department of Ecology and to any and all third parties that:

a. In the event that [owner or operator] fails to provide alternate coverage within 60 days after receipt of a notice of cancellation of this Guarantee and the Washington State

Department of Ecology has determined or suspects that a release has occurred at an underground storage tank covered by this Guarantee, the Guarantor, upon instructions from the Department, must fund a standby trust fund in accordance with the provisions of WAC 173-360A-1050, in an amount not to exceed the coverage limits specified above.

b. In the event that the Department determines that [owner or operator] has failed to perform remedial action for releases arising out of the operation of the above-identified tank(s) in accordance with WAC 173-360A-0750, the Guarantor, upon written instructions from the Department, must fund a standby trust in accordance with the provisions of WAC 173-360A-1050, in an amount not to exceed the coverage limits specified above.

c. If [owner or operator] fails to satisfy a judgment or award based on a determination of liability for bodily injury or property damage to third parties caused by ["sudden" and/or "nonsudden"] accidental releases arising from the operation of the above-identified tank(s), or fails to pay an amount agreed to in settlement of a claim arising from or alleged to arise from such injury or damage, the Guarantor, upon written instructions from the Department, must fund a standby trust in accordance with the provisions of WAC 173-360A-1050 to satisfy such judgment(s), award(s), or settlement agreement(s) up to the limits of coverage specified above.

4. Guarantor agrees that if, at the end of any fiscal year before cancellation of this Guarantee, the Guarantor fails to meet the financial test criteria of WAC 173-360A-1060 (2)(a) or (b) and (3), Guarantor must send within 120 days of such failure, by certified mail, notice to [owner or operator]. The Guarantee will terminate 120 days from the date of receipt of the notice by [owner or operator], as evidenced by the return receipt.

5. Guarantor agrees to notify [owner or operator] by certified mail of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming Guarantor as debtor, within 10 days after commencement of the proceeding.

6. Guarantor agrees to remain bound under this Guarantee notwithstanding any modification or alteration of any obligation of [owner or operator] pursuant to chapter 173-360A WAC.

7. Guarantor agrees to remain bound under this Guarantee for so long as [owner or operator] must comply with the applicable financial responsibility requirements of Part 10 of chapter 173-360A WAC for the above-identified tank(s), except that Guarantor may cancel this Guarantee by sending notice by certified mail to [owner or operator], such cancellation to become effective no earlier than 120 days after receipt of such notice by [owner or operator], as evidenced by the return receipt.

8. The Guarantor's obligation does not apply to any of the following:

a. Any obligation of [insert owner or operator] under a workers' compensation, disability benefits, or unemployment compensation law or other similar law;

b. Bodily injury to an employee of [insert owner or operator] arising from, and in the course of, employment by [insert owner or operator];

c. Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;

d. Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [insert owner or operator] that is not the direct result of a release from an underground storage tank;

e. Bodily damage or property damage for which [insert owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of WAC 173-360A-1015.

9. Guarantor expressly waives notice of acceptance of this Guarantee by the Washington State Department of Ecology, by any or all third parties, or by [owner or operator].

I hereby certify that the wording of this Guarantee is identical to the wording specified in WAC 173-360A-1081 as such regulations were constituted on the effective date shown immediately below.

Effective date:

[Name of Guarantor]

[Authorized signature for Guarantor]

[Name of person signing]

[Title of person signing]

Signature of witness or notary:

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

#### NEW SECTION

#### **WAC 173-360A-1082 Appendix C—Endorsement.**

Name: [name of each covered location]

Address: [address of each covered location]

Policy Number:

Period of Coverage: [current policy period]

Policy Retroactive Date:

Name of [Insurer or Risk Retention Group]:

Address of [Insurer or Risk Retention Group]:

Name of Insured:

Address of Insured:

#### *Endorsement:*

1. This endorsement certifies that the policy to which the endorsement is attached provides liability insurance covering the following underground storage tanks:

[List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to WAC 173-360A-0200, and the name and address of the facility.]

for [insert: "taking remedial action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental release"; in accordance with and subject to the limits of liability, exclusions, conditions, and other terms of the policy; if coverage is different

for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the underground storage tank(s) identified above.

The limits of liability are [insert the dollar amount of the "each occurrence" and "annual aggregate" limits of the Insurer's or Group's liability; if the amount of coverage is different for different types of coverage or for different underground storage tanks or locations, indicate the amount of coverage for each type of coverage and/or for each underground storage tank or location], exclusive of legal defense costs, which are subject to a separate limit under the policy. This coverage is provided under [policy number]. The effective date of said policy is [date].

2. The insurance afforded with respect to such occurrences is subject to all of the terms and conditions of the policy; provided, however, that any provisions inconsistent with subsections (a) through (e) of this Paragraph 2 are hereby amended to conform with subsections (a) through (e):

a. Bankruptcy or insolvency of the insured does not relieve the ["Insurer" or "Group"] of its obligations under the policy to which this endorsement is attached.

b. The ["Insurer" or "Group"] is liable for the payment of amounts within any deductible applicable to the policy to the provider of remedial action or a damaged third-party, with a right of reimbursement by the insured for any such payment made by the ["Insurer" or "Group"]. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated under another mechanism or combination of mechanisms as specified in WAC 173-360A-1060 through 173-360A-1065 and 173-360A-1070 through 173-360A-1073.

c. Whenever requested by the Washington State Department of Ecology, the ["Insurer" or "Group"] agrees to furnish to the Department a signed duplicate original of the policy and all endorsements.

d. Cancellation or any other termination of the insurance by the ["Insurer" or "Group"], except for nonpayment of premium or misrepresentation by the insured, will be effective only upon written notice and only after the expiration of 60 days after a copy of such written notice is received by the insured. Cancellation for nonpayment of premium or misrepresentation by the insured will be effective only upon written notice and only after expiration of a minimum of 10 days after a copy of such written notice is received by the insured.

[Insert for claims-made policies:

e. The insurance covers claims otherwise covered by the policy that are reported to the ["Insurer" or "Group"] within six months of the effective date of cancellation or nonrenewal of the policy except where the new or renewed policy has the same retroactive date or a retroactive date earlier than that of the prior policy, and which arise out of any covered occurrence that commenced after the policy retroactive date, if applicable, and prior to such policy renewal or termination date. Claims reported during such extended reporting period are subject to the terms, conditions, limits, including limits of liability, and exclusions of the policy.]

I hereby certify that the wording of this instrument is identical to the wording in WAC 173-360A-1082 and that the ["Insurer" or "Group"] is ["licensed to transact the business of

insurance or eligible to provide insurance as an excess or surplus lines insurer in one or more states"].

[Signature of Authorized Representative of Insurer or Risk Retention Group]

[Name of person signing]

[Title of person signing], Authorized Representative of [name of Insurer or Risk Retention Group]

[Address of Representative]

Endorsement Holder:

Business Licensing Service

P.O. Box 9034

Olympia, WA 98507-9034

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

#### NEW SECTION

#### **WAC 173-360A-1083 Appendix D—Certificate of insurance.**

Name: [name of each covered location]

Address: [address of each covered location]

Policy Number:

Endorsement (if applicable):

Period of Coverage: [current policy period]

Policy Retroactive Date:

Name of [Insurer or Risk Retention Group]:

Address of [Insurer or Risk Retention Group]:

Name of Insured:

Address of Insured:

#### *Certification:*

1. [Name of Insurer or Risk Retention Group], [the "Insurer" or "Group"], as identified above, hereby certifies that it has issued liability insurance covering the following underground storage tank(s):

[List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to WAC 173-360A-0200, and the name and address of the facility.]

for [insert: "Taking remedial action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"; in accordance with and subject to the limits of liability, exclusions, conditions, and other terms of the policy; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the underground storage tank(s) identified above.

The limits of liability are [insert the dollar amount of the "each occurrence" and "annual aggregate" limits of the Insurer's or Group's liability; if the amount of coverage is different for different types of coverage or for different underground storage tanks or locations, indicate the amount of coverage for each type of coverage and/or for each underground

storage tank or location], exclusive of legal defense costs, which are subject to a separate limit under the policy. This coverage is provided under [policy number]. The effective date of said policy is [date].

2. The ["Insurer" or "Group"] further certifies the following with respect to the insurance described in Paragraph 1:

a. Bankruptcy or insolvency of the insured does not relieve the ["Insurer" or "Group"] of its obligations under the policy to which this certificate applies.

b. The ["Insurer" or "Group"] is liable for the payment of amounts within any deductible applicable to the policy to the provider of remedial action or a damaged third-party, with a right of reimbursement by the insured for any such payment made by the ["Insurer" or "Group"]. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated under another mechanism or combination of mechanisms as specified in WAC 173-360A-1060 through 173-360A-1065 and 173-360A-1070 through 173-360A-1073.

c. Whenever requested by the Washington State Department of Ecology, the ["Insurer" or "Group"] agrees to furnish the Department a signed duplicate original of the policy and all endorsements.

d. Cancellation or any other termination of the insurance by the ["Insurer" or "Group"], except for nonpayment of premium or misrepresentation by the insured, will be effective only upon written notice and only after the expiration of 60 days after a copy of such written notice is received by the insured. Cancellation for nonpayment of premium or misrepresentation by the insured will be effective only upon written notice and only after expiration of a minimum of 10 days after a copy of such notice is received by the insured.

[Insert for claims-made policies:

e. The insurance covers claims otherwise covered by the policy that are reported to the ["Insurer" or "Group"] within six months of the effective date of the cancellation or nonrenewal of the policy except where the new or renewed policy has the same retroactive date or a retroactive date earlier than that of the prior policy, and which arise out of any covered occurrence that commenced after the policy retroactive date, if applicable, and prior to such policy renewal or termination date. Claims reported during such extended reporting period are subject to the terms, conditions, limits, including limits of liability, and exclusions of the policy.]

I hereby certify that the wording of this instrument is identical to the wording in WAC 173-360A-1083 and that the ["Insurer" or "Group"] is ["licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more states"].

[Signature of Authorized Representative of Insurer]

[Type name]

[Title], Authorized Representative of [name of Insurer or Risk Retention Group]

[Address of Representative]

Certificate Holder:

Business Licensing Service  
P.O. Box 9034  
Olympia, WA 98507-9034

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

## NEW SECTION

### **WAC 173-360A-1084 Appendix E—Performance bond.**

Date bond executed:

Period of coverage:

Principal: [legal name and business address of owner or operator]

Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]

State of incorporation (if applicable):

Surety(ies): [name(s) and business address(es)]

Scope of coverage: [List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to WAC 173-360A-0200, and the name and address of the facility. List the coverage guaranteed by the bond: "Taking remedial action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases" "arising from operating the underground storage tank".]

Penal sums of bond:

Per occurrence \$

Annual aggregate \$

Surety's bond number:

Know All Persons by These Presents, that we, the Principal and Surety(ies), hereto are firmly bound to the Washington State Department of Ecology, in the above penal sums for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where the Surety(ies) are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sums jointly and severally only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sums only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability is the full amount of the penal sums.

Whereas said Principal is required under the Solid Waste Disposal Act, as amended, and chapter 90.76 RCW to provide financial assurance for [insert: "Taking remedial action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the underground storage tanks identified above; and

Whereas said Principal must establish a standby trust fund as is required when a surety bond is used to provide such financial assurance;

Now, therefore, the conditions of the obligation are such that if the Principal faithfully ["takes remedial action, in accordance with WAC 173-360A-0750 and the Washington State Department of Ecology's instructions for," and/or "compensates injured third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"] arising from operating the tank(s) identified above, or if the Principal provides alternate financial assurance, as specified in Part 10 of chapter 173-360A WAC, within 120 days after the date the notice of cancellation is received by the Principal from the Surety(ies), then this obligation is null and void; otherwise it is to remain in full force and effect.

Such obligation does not apply to any of the following:

(1) Any obligation of [insert owner or operator] under a workers' compensation, disability benefits, or unemployment compensation law or other similar law;

(2) Bodily injury to an employee of [insert owner or operator] arising from, and in the course of, employment by [insert owner or operator];

(3) Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;

(4) Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [insert owner or operator] that is not the direct result of a release from an underground storage tank;

(5) Bodily injury or property damage for which [insert owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of WAC 173-360A-1015.

The Surety(ies) become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above.

Upon notification by the Washington State Department of Ecology that the Principal has failed to ["take remedial action, in accordance with WAC 173-360A-0750 and the Department's instructions" and/or "compensate injured third parties"] as guaranteed by this bond, the Surety(ies) must either perform ["remedial action in accordance with WAC 173-360A-0750 and the Department's instructions" and/or "third-party liability compensation"] or place funds in an amount up to the annual aggregate penal sum into the standby trust fund as directed by the Department under WAC 173-360A-1050.

Upon notification by the Department that the Principal has failed to provide alternate financial assurance within 60 days after the date the notice of cancellation is received by the Principal from the Surety(ies) and that the Department has determined or suspects that a release has occurred, the Surety(ies) must place funds in an amount not exceeding the annual aggregate penal sum into the standby trust fund as directed by the Department under WAC 173-360A-1050.

The Surety(ies) hereby waive(s) notification of amendments to applicable laws, statutes, rules, and regulations and agrees that no such amendment in any way alleviates its (their) obligation on this bond.

The liability of the Surety(ies) is not discharged by any payment or succession of payments hereunder, unless and

until such payment or payments amount in the annual aggregate to the penal sum shown on the face of the bond, but in no event do the obligation of the Surety(ies) hereunder exceed the amount of said annual aggregate penal sum.

The Surety(ies) may cancel the bond by sending notice of cancellation by certified mail to the principal, provided, however, that cancellation must not occur during the 120 days beginning on the date of receipt of the notice of cancellation by the principal, as evidenced by the return receipt.

The Principal may terminate this bond by sending written notice to the Surety(ies).

In witness thereof, the Principal and Surety(ies) have executed this Bond and have affixed their seals on the date set forth above.

The persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety(ies) and that the wording of this surety bond is identical to the wording specified in WAC 173-360A-1084 as such regulations were constituted on the date this bond was executed.

*Principal*

[Signature(s)]

[Name(s)]

[Title(s)]

[Corporate seal]

*Corporate Surety(ies)*

[Name and address]

[State of incorporation:]

[Liability limit: \$]

[Signature(s)]

[Name(s) and title(s)]

[Corporate seal]

[For every co-surety, provide signature(s), corporate seal, and other information in the same manner as for surety above.]

Bond premium: \$

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

## NEW SECTION

### **WAC 173-360A-1085 Appendix F—Irrevocable standby letter of credit.**

[Name and address of issuing institution]

[Name and address of the Washington State Department of Ecology]

Dear Sir or Madam: We hereby establish our Irrevocable Standby Letter of Credit No. . . . . in your favor, at the request and for the account of [owner or operator name] of [address] up to the aggregate amount of [in words] U.S. dollars (\$[insert dollar amount]), available upon presentation of:

(1) Your sight draft, bearing reference to this letter of credit, No. . . . ; and

(2) Your signed statement reading as follows: "I certify that the amount of the draft is payable pursuant to regulations issued under authority of the Solid Waste Disposal Act, as amended, and chapter 90.76 RCW."

This letter of credit may be drawn on to cover [insert: "taking remedial action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"] arising from operating the underground storage tank(s) identified below in the amount of [in words] \$[insert dollar amount] per occurrence and [in words] \$[insert dollar amount] annual aggregate:

[List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to WAC 173-360A-0200, and the name and address of the facility.]

The letter of credit may not be drawn on to cover any of the following:

(a) Any obligation of [insert owner or operator] under a workers' compensation, disability benefits, or unemployment compensation law or other similar law;

(b) Bodily injury to an employee of [insert owner or operator] arising from, and in the course of, employment by [insert owner or operator];

(c) Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;

(d) Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [insert owner or operator] that is not the direct result of a release from an underground storage tank;

(e) Bodily injury or property damage for which [insert owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of WAC 173-360A-1015.

This letter of credit is effective as of [date] and expires on [date], but such expiration date is automatically extended for a period of [at least the length of the original term] on [expiration date] and on each successive expiration date, unless, at least 120 days before the current expiration date, we notify [owner or operator] by certified mail that we have decided not to extend this letter of credit beyond the current expiration date. In the event that [owner or operator] is so notified, any unused portion of the credit is available upon presentation of your sight draft for 120 days after the date of receipt by [owner or operator], as shown on the signed return receipt.

Whenever this letter of credit is drawn on under and in compliance with the terms of this credit, we must duly honor such draft upon presentation to us, and we must deposit the amount of the draft directly into the standby trust fund of [owner or operator] in accordance with your instructions.

We certify that the wording of this letter of credit is identical to the wording specified in WAC 173-360A-1085 as such regulations were constituted on the date shown immediately below.

[Signature(s) and title(s) of official(s) of issuing institution]

[Date]

This credit is subject to [insert "the most recent edition of the Uniform Customs and Practice for Documentary Credits, published by the International Chamber of Commerce," or "the Uniform Commercial Code"].

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

## NEW SECTION

### **WAC 173-360A-1086 Appendix G—Trust agreement.**

Trust agreement, the "Agreement," entered into as of [date] by and between [name of the owner or operator], a Washington state [insert "corporation," "partnership," "association," or "proprietorship"], the "Grantor," and [name of corporate trustee], [insert "Incorporated in the state of Washington" or "a national bank"], the "Trustee."

Whereas, the Department of Ecology, "Ecology", an agency of the state of Washington, has established certain regulations applicable to the grantor, requiring that an owner or operator of an underground storage tank must provide assurance that funds will be available when needed for remedial action and third-party compensation for bodily injury and property damage caused by sudden and nonsudden accidental releases arising from the operation of the underground storage tank. The attached Schedule A lists the number of tanks at each facility and the name(s) and addresses of the facility(ies) where the tanks are located that are covered by the [insert "standby" where trust agreement is standby trust agreement] trust agreement.

[Whereas, the Grantor has elected to establish [insert either "a guarantee," "surety bond," or "letter of credit"] to provide all or part of such financial assurance for the underground storage tanks identified herein and is required to establish a standby trust fund able to accept payments from the instrument (This paragraph is only applicable to the standby trust agreement.)];

Whereas, the Grantor, acting through its duly authorized officers, has selected the Trustee to be the trustee under this Agreement, and the Trustee is willing to act as trustee;

Now, therefore, the Grantor and the Trustee agree as follows:

#### *Section 1. Definitions.*

As used in this Agreement:

(1) The term "Grantor" means the owner or operator who enters into this agreement and any successors or assigns of the Grantor.

(2) The term "Trustee" means the Trustee who enters into this agreement and any successor Trustee.

#### *Section 2. Identification of the Financial Assurance Mechanism.*

This Agreement pertains to the [identify the financial assurance mechanism, either a guarantee, surety bond, or letter of credit, from which the standby trust fund is established to receive payments (This paragraph is only applicable to the standby trust agreement.)].

*Section 3. Establishment of Fund.*

The Grantor and the Trustee hereby establish a trust fund, the "fund," for the benefit of the Washington State Department of Ecology. The Grantor and the Trustee intend that no third party have access to the fund except as herein provided. [The fund is established initially as a standby to receive payments and does not consist of any property.] Payments made by the provider of financial assurance pursuant to the Washington State Department of Ecology's instruction are transferred to the Trustee and are referred to as the fund, together with all earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to this Agreement. The fund must be held by the Trustee, IN TRUST, as thereafter provided. The Trustee is not responsible nor does it undertake any responsibility for the amount or adequacy of, nor any duty to collect from the Grantor as provider of financial assurance, any payments necessary to discharge any liability of the Grantor established by the Washington State Department of Ecology.

*Section 4. Payment for ["Remedial Action" and/or "Third-Party Liability Claims"].*

The trustee must make payments from the fund as the Washington State Department of Ecology directs, in writing, to provide for the payment of the costs of [insert: "taking remedial action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"] arising from operating the tanks covered by the financial assurance mechanism identified in this Agreement.

The fund may not be drawn upon to cover any of the following:

- (a) Any obligation of [insert owner or operator] under a workers' compensation, disability benefits, or unemployment compensation law or other similar law;
- (b) Bodily injury to an employee of [insert owner or operator] arising from, and in the course of, employment by [insert owner or operator];
- (c) Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;
- (d) Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [insert owner or operator] that is not the direct result of a release from an underground storage tank;
- (e) Bodily injury or property damage for which [insert owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of WAC 173-360A-1015.

The Trustee must reimburse the Grantor, or other persons as specified by the Department from the fund for remedial action expenditures and/or third-party liability claims in such amounts as the Department directs in writing. In addition, the Trustee must refund to the Grantor such amounts as the Department specifies in writing. Upon refund, such funds no longer constitute part of the fund as defined herein.

*Section 5. Payments Comprising the Fund.*

Payments made to the Trustee for the fund must consist of cash and securities acceptable to the Trustee.

*Section 6. Trustee Management.*

The Trustee must invest and reinvest the principal and income of the fund and keep the fund invested as a single fund, without distinction between principal and income, in accordance with general investment policies and guidelines which the Grantor may communicate in writing to the trustee from time to time, subject, however, to the provisions of this section. In investing, reinvesting, exchanging, selling, and managing the fund, the Trustee must discharge his duties with respect to the trust fund solely in the interest of the beneficiaries and with the care, skill, prudence, and diligence under the circumstances then prevailing which persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of a like character and with like aims; except that:

(a) Securities or other obligations of the Grantor, or any other owner or operator of the tanks, or any of their affiliates as defined in the Investment Company Act of 1940, as amended, 15 U.S.C. 80a-2(1), must not be acquired or held, unless they are securities or other obligations of the federal or a state government;

(b) The Trustee is authorized to invest the fund in time or demand deposits of the Trustee, to the extent insured by an agency of the federal or state government; and

(c) The Trustee is authorized to hold cash awaiting investment or distribution uninvested for a reasonable time and without liability for the payment of interest thereon.

*Section 7. Commingling and Investment.*

The Trustee is expressly authorized in its discretion:

(a) To transfer from time to time any or all of the assets of the fund to any common, commingled, or collective trust fund created by the Trustee in which the fund is eligible to participate, subject to all of the provisions thereof, to be commingled with the assets of other trusts participating therein; and

(b) To purchase shares in any investment company registered under the Investment Company Act of 1940, 15 U.S.C. 80a-1 et seq., including one which may be created, managed, underwritten, or to which investment advice is rendered or the shares of which are sold by the Trustee. The Trustee may vote such shares in its discretion.

*Section 8. Express Powers of Trustee.*

Without in any way limiting the powers and discretions conferred upon the Trustee by the other provisions of this Agreement or by law, the Trustee is expressly authorized and empowered:

(a) To sell, exchange, convey, transfer, or otherwise dispose of any property held by it, by public or private sale. No person dealing with the Trustee is bound to see to the application of the purchase money or to inquire into the validity or expediency of any such sale or other disposition;

(b) To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all

other instruments that may be necessary or appropriate to carry out the powers herein granted;

(c) To register any securities held in the fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central depository even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depository with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United States government, or any agency or instrumentality thereof, with a Federal Reserve bank, but the books and records of the Trustee must at all times show that all such securities are part of the fund;

(d) To deposit any cash in the fund in interest-bearing accounts maintained or savings certificates issued by the Trustee, in its separate corporate capacity, or in any other banking institution affiliated with the Trustee, to the extent insured by an agency of the federal or state government; and

(e) To compromise or otherwise adjust all claims in favor of or against the fund.

#### *Section 9. Taxes and Expenses.*

All taxes of any kind that may be assessed or levied against or in respect of the fund and all brokerage commissions incurred by the fund must be paid from the fund. All other expenses incurred by the Trustee in connection with the administration of this trust, including fees for legal services rendered to the Trustee, the compensation of the Trustee to the extent not paid directly by the Grantor, and all other proper charges and disbursements of the Trustee must be paid from the fund.

#### *Section 10. Advice of Counsel.*

The Trustee may from time to time consult with counsel, who may be counsel to the Grantor, with respect to any questions arising as to the construction of this Agreement or any action to be taken hereunder. The Trustee is fully protected, to the extent permitted by law, in acting upon the advice of counsel.

#### *Section 11. Trustee Compensation.*

The Trustee is entitled to reasonable compensation for its services as agreed upon in writing from time to time with the Grantor.

#### *Section 12. Successor Trustee.*

The Trustee may resign or the Grantor may replace the Trustee, but such resignation or replacement is not effective until the Grantor has appointed a successor trustee and this successor accepts the appointment. The successor trustee has the same powers and duties as those conferred upon the Trustee hereunder. Upon the successor trustee's acceptance of the appointment, the Trustee must assign, transfer, and pay over to the successor trustee the funds and properties then constituting the fund. If for any reason the Grantor cannot or does not act in the event of the resignation of the Trustee, the

Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or for instructions. The successor trustee must specify the date on which it assumes administration of the trust in writing sent to the Grantor and the present Trustee by certified mail 10 days before such change becomes effective. Any expenses incurred by the Trustee as a result of any of the acts contemplated by this section must be paid as provided in *Section 9*.

#### *Section 13. Instructions to the Trustee.*

All orders, requests, and instructions by the Grantor to the Trustee must be in writing, signed by such persons as are designated in the attached Schedule B or such other designees as the Grantor may designate by amendment to Schedule B. The Trustee is fully protected in acting without inquiry in accordance with the Grantor's orders, requests, and instructions. All orders, requests, and instructions by the Washington State Department of Ecology to the Trustee must be in writing, signed by the Department, and the Trustee must act and is fully protected in acting in accordance with such orders, requests, and instructions. The Trustee has the right to assume, in the absence of written notice to the contrary, that no event constituting a change or a termination of the authority of any person to act on behalf of the Grantor or the Department, hereunder has occurred. The Trustee has no duty to act in the absence of such orders, requests, and instructions from the Grantor and/or the Department, except as provided for herein.

#### *Section 14. Amendment of Agreement.*

This Agreement may be amended by an instrument in writing executed by the Grantor and the Trustee, or by the Trustee and the Washington State Department of Ecology, if the Grantor ceases to exist.

#### *Section 15. Irrevocability and Termination.*

Subject to the right of the parties to amend this Agreement as provided in *Section 14*, this trust is irrevocable and continues until terminated at the written direction of the Grantor and the Trustee, or by the Trustee and the Washington State Department of Ecology, if the Grantor ceases to exist. Upon termination of the trust, all remaining trust property, less final trust administration expenses, must be delivered to the Grantor.

#### *Section 16. Immunity and Indemnification.*

The Trustee does not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this trust, or in carrying out any directions by the Grantor or the Washington State Department of Ecology, issued in accordance with this agreement. The Trustee is indemnified and saved harmless by the Grantor, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official capacity, including all expenses reasonably incurred in its defense in the event the Grantor fails to provide such defense.

*Section 17. Choice of Law.*

This Agreement must be administered, construed, and enforced according to the laws of the state of Washington, or the Comptroller of the Currency in the case of National Association banks.

*Section 18. Interpretation.*

As used in this Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each section of this Agreement does not affect the interpretation or the legal efficacy of this Agreement.

In witness whereof the parties have caused this Agreement to be executed by their respective officers duly authorized and their corporate seals (if applicable) to be hereunto affixed and attested as of the date first above written. The parties below certify that the wording of this Agreement is identical to the wording specified in WAC 173-360A-1086 as such regulations were constituted on the date written above.

[Signature of Grantor]  
[Name of the Grantor]  
[Title]

Attest:  
[Signature of Trustee]  
[Name of the Trustee]  
[Title]  
[Seal]

Attest:

[Signature of Witness]  
[Name of Witness]  
[Title]  
[Seal]

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION**WAC 173-360A-1087 Appendix H—Certification of acknowledgment.**

State of Washington  
County of

On this [date], before me personally came [owner or operator] to me known, who, being by me duly sworn, did depose and say that she/he resides at [address], that she/he is [title] of [corporation], the corporation described in and which executed the above instrument; that she/he knows the seal of said corporation; that the seal affixed to such instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation; and that she/he signed her/his name thereto by like order.

[Signature of notary public]  
[Name of notary public]

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION**WAC 173-360A-1088 Appendix I—Local government bond rating test—Letter from chief financial officer of general purpose local governments.**

I am the chief financial officer of [insert: name and address of local government owner or operator, or guarantor]. This letter is in support of the use of the bond rating test to demonstrate financial responsibility for [insert: "taking remedial action" and/or "compensating third parties for bodily injury and property damage"] caused by [insert: "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"] in the amount of at least [insert: dollar amount] per occurrence and [insert: dollar amount] annual aggregate arising from operating (an) underground storage tank(s).

Underground storage tanks at the following facilities are assured by this bond rating test: [List for each facility: the name and address of the facility where tanks are assured by the bond rating test].

The details of the issue date, maturity, outstanding amount, bond rating, and bond rating agency of all outstanding bond issues that are being used by [name of local government owner or operator, or guarantor] to demonstrate financial responsibility are as follows: [complete table]

Issue date	Maturity date	Outstanding amount	Bond Rating	Rating Agency
				[Moody's or Standard & Poor's]

The total outstanding obligation of [insert amount], excluding refunded bond issues, exceeds the minimum amount of \$1 million. All outstanding general obligation bonds issued by this government that have been rated by Moody's or Standard & Poor's are rated as at least investment grade (Moody's Baa or Standard & Poor's BBB) based on the most recent ratings published within the last 12 months. Neither rating service has provided notification within the last 12 months of downgrading of bond ratings below investment grade or of withdrawal of bond rating other than for repayment of outstanding bond issues.

I hereby certify that the wording of this letter is identical to the wording specified in WAC 173-360A-1088 as such regulations were constituted on the date shown immediately below.

[Date]  
[Signature]  
[Name]  
[Title]

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

#### NEW SECTION

#### **WAC 173-360A-1089 Appendix J—Local government bond rating test—Letter from chief financial officer of non-general purpose local governments.**

I am the chief financial officer of [insert: name and address of local government owner or operator, or guarantor]. This letter is in support of the use of the bond rating test to demonstrate financial responsibility for [insert: "taking remedial action" and/or "compensating third parties for bodily injury and property damage"] caused by [insert: "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"] in the amount of at least [insert: dollar amount] per occurrence and [insert: dollar amount] annual aggregate arising from operating (an) underground storage tank(s). This local government is not organized to provide general governmental services and does not have the legal authority under state law or constitutional provisions to issue general obligation debt.

Underground storage tanks at the following facilities are assured by this bond rating test: [List for each facility: the name and address of the facility where tanks are assured by the bond rating test].

The details of the issue date, maturity, outstanding amount, bond rating, and bond rating agency of all outstanding revenue bond issues that are being used by [name of local government owner or operator, or guarantor] to demonstrate financial responsibility are as follows: [complete table]

Issue date	Maturity date	Outstanding amount	Bond Rating	Rating Agency
[Moody's or Standard & Poor's]				

The total outstanding obligation of [insert amount], excluding refunded bond issues, exceeds the minimum amount of \$1 million. All outstanding revenue bonds issued by this government that have been rated by Moody's or Standard & Poor's are rated as at least investment grade (Moody's Baa or Standard & Poor's BBB) based on the most recent ratings published within the last 12 months. The revenue bonds listed are not backed by third-party credit enhancement or insured by a municipal bond insurance company. Neither rating service has provided notification within the last 12 months of downgrading of bond ratings below investment grade or of withdrawal of bond rating other than for repayment of outstanding bond issues.

I hereby certify that the wording of this letter is identical to the wording specified in WAC 173-360A-1089 as such regulations were constituted on the date shown immediately below.

[Date]  
[Signature]  
[Name]  
[Title]

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

#### NEW SECTION

#### **WAC 173-360A-1090 Appendix K—Local government financial test—Letter from chief financial officer.**

I am the chief financial officer of [insert: name and address of the owner or operator]. This letter is in support of the use of the local government financial test to demonstrate financial responsibility for [insert: "taking remedial action" and/or "compensating third parties for bodily injury and property damage"] caused by [insert: "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"] in the amount of at least [insert: dollar amount] per

occurrence and [insert: dollar amount] annual aggregate arising from operating [an] underground storage tank[s].

Underground storage tanks at the following facilities are assured by this financial test [List for each facility: the name and address of the facility where tanks assured by this financial test are located. If separate mechanisms or combinations of mechanisms are being used to assure any of the tanks at this facility, list each tank assured by this financial test by the tank identification number provided in the notification submitted pursuant to WAC 173-360A-0200.]

This owner or operator has not received an adverse opinion, or a disclaimer of opinion from an independent auditor on its financial statements for the latest completed fiscal year. Any outstanding issues of general obligation or revenue bonds, if rated, have a Moody's rating of Aaa, Aa, A, or Baa or a Standard & Poor's rating of AAA, AA, A, or BBB; if rated by both firms, the bonds have a Moody's rating of Aaa, Aa, A, or Baa and a Standard & Poor's rating of AAA, AA, A, or BBB.

#### Worksheet for Municipal Financial Test Part I - Basic Information

##### 1. Total Revenues

###### a. Revenues (dollars): \_\_\_\_\_

Value of revenues excludes liquidation of investments and issuance of debt. Value includes all general fund operating and non-operating revenues, as well as all revenues from all other governmental funds including enterprise, debt service, capital projects, and special revenues, but excluding revenues to funds held in a trust or agency capacity.

###### b. Subtract interfund transfers (dollars): \_\_\_\_\_

###### c. Total Revenues (dollars): \_\_\_\_\_

##### 2. Total Expenditures

###### a. Expenditures (dollars): \_\_\_\_\_

Value consists of the sum of general fund operating and non-operating expenditures including interest payments on debt, payments for retirement of debt principal, and total expenditures from all other governmental funds including

enterprise, debt service, capital projects, and special revenues.

- b. Subtract interfund transfers (dollars): \_\_\_\_\_
- c. Total Expenditures (dollars): \_\_\_\_\_
- 3. Local Revenues
  - a. Total Revenues (from 1c) (dollars): \_\_\_\_\_
  - b. Subtract total intergovernmental transfers (dollars): \_\_\_\_\_

c. Local Revenues (dollars): \_\_\_\_\_

4. Debt Service

- a. Interest and fiscal charges (dollars): \_\_\_\_\_
- b. Add debt retirement (dollars): \_\_\_\_\_
- c. Total Debt Service (dollars): \_\_\_\_\_

5. Total Funds (Dollars): \_\_\_\_\_

Sum of amounts held as cash and investment securities from all funds, excluding amounts held for employee retirement funds, agency funds, and trust funds.

6. Population (Persons): \_\_\_\_\_

#### Part II - Application of Test

7. Total Revenues to Population

- a. Total Revenues (from 1c): \_\_\_\_\_
- b. Population (from 6): \_\_\_\_\_
- c. Divide 7a by 7b: \_\_\_\_\_
- d. Subtract 417: \_\_\_\_\_
- e. Divide by 5,212: \_\_\_\_\_
- f. Multiply by 4.095: \_\_\_\_\_

8. Total Expenses to Population

- a. Total Expenses (from 2c): \_\_\_\_\_
- b. Population (from 6): \_\_\_\_\_
- c. Divide 8a by 8b: \_\_\_\_\_
- d. Subtract 524: \_\_\_\_\_
- e. Divide by 5,401: \_\_\_\_\_
- f. Multiply by 4.095: \_\_\_\_\_

9. Local Revenues to Total Revenues

- a. Local Revenues (from 3c): \_\_\_\_\_
- b. Total Revenues (from 1c): \_\_\_\_\_
- c. Divide 9a by 9b: \_\_\_\_\_
- d. Subtract 0.695: \_\_\_\_\_
- e. Divide by 0.205: \_\_\_\_\_
- f. Multiply by 2.840: \_\_\_\_\_

10. Debt Service to Population

- a. Debt Service (from 4c): \_\_\_\_\_
- b. Population (from 6): \_\_\_\_\_
- c. Divide 10a by 10b: \_\_\_\_\_
- d. Subtract 51: \_\_\_\_\_
- e. Divide by 1,038: \_\_\_\_\_
- f. Multiply by -1.866: \_\_\_\_\_

11. Debt Service to Total Revenues

- a. Debt Service (from 4c): \_\_\_\_\_
- b. Total Revenues (from 1c): \_\_\_\_\_
- c. Divide 11a by 11b: \_\_\_\_\_
- d. Subtract 0.068: \_\_\_\_\_
- e. Divide by 0.259: \_\_\_\_\_
- f. Multiply by -3.533: \_\_\_\_\_

12. Total Revenues to Total Expenses

- a. Total Revenues (from 1c): \_\_\_\_\_
- b. Total Expenses (from 2c): \_\_\_\_\_
- c. Divide 12a by 12b: \_\_\_\_\_
- d. Subtract 0.910: \_\_\_\_\_

e. Divide by 0.899: \_\_\_\_\_

f. Multiply by 3.458: \_\_\_\_\_

13. Funds Balance to Total Revenues

- a. Total Funds (from 5): \_\_\_\_\_
- b. Total Revenues (from 1c): \_\_\_\_\_
- c. Divide 13a by 13b: \_\_\_\_\_
- d. Subtract 0.891: \_\_\_\_\_
- e. Divide by 9.156: \_\_\_\_\_
- f. Multiply by 3.270: \_\_\_\_\_

14. Funds Balance to Total Expenses

- a. Total Funds (from 5): \_\_\_\_\_
- b. Total Expenses (from 2c): \_\_\_\_\_
- c. Divide 14a by 14b: \_\_\_\_\_
- d. Subtract 0.866: \_\_\_\_\_
- e. Divide by 6.409: \_\_\_\_\_
- f. Multiply by 3.270: \_\_\_\_\_

15. Total Funds to Population

- a. Total Funds (from 5): \_\_\_\_\_
- b. Population (from 6): \_\_\_\_\_
- c. Divide 15a by 15b: \_\_\_\_\_
- d. Subtract 270: \_\_\_\_\_
- e. Divide by 4,548: \_\_\_\_\_
- f. Multiply by 1.866: \_\_\_\_\_
- 16. Add 7f + 8f + 9f + 10f + 11f + 12f + 13f + 14f + 15f + 4.937: \_\_\_\_\_

I hereby certify that the financial index shown on line 16 of the worksheet is greater than zero and that the wording of this letter is identical to the wording specified in WAC 173-360A-1090 as such regulations were constituted on the date shown immediately below.

[Date]

[Signature]

[Name]

[Title]

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

#### NEW SECTION

#### **WAC 173-360A-1091 Appendix L—Local government guarantee with standby trust made by a state.**

Guarantee made this [date] by [name of state], herein referred to as Guarantor, to the Washington State Department of Ecology and to any and all third parties, and obliges, on behalf of [local government owner or operator].

#### *Recitals*

1. Guarantor is a state.

2. [Local government owner or operator] owns or operates the following underground storage tank(s) covered by this Guarantee: [List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to WAC 173-360A-0200, and the name and address of the facility.] This Guarantee satisfies requirements of Part 10 of chapter 173-

360A WAC for assuring funding for [insert: "taking remedial action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the above-identified underground storage tank(s) in the amount of [insert dollar amount] per occurrence and [insert dollar amount] annual aggregate.

3. Guarantor guarantees to the Washington State Department of Ecology and to any and all third parties that:

a. In the event that [local government owner or operator] fails to provide alternate coverage within 60 days after receipt of a notice of cancellation of this Guarantee and the Washington State Department of Ecology has determined or suspects that a release has occurred at an underground storage tank covered by this Guarantee, the Guarantor, upon instructions from the Department must fund a standby trust fund in accordance with the provisions of WAC 173-360A-1050, in an amount not to exceed the coverage limits specified above.

b. In the event that the Department determines that [local government owner or operator] has failed to perform remedial action for releases arising out of the operation of the above-identified tank(s) in accordance with WAC 173-360A-0750, the Guarantor upon written instructions from the Department must fund a standby trust fund in accordance with the provisions of WAC 173-360A-1050, in an amount not to exceed the coverage limits specified above.

c. If [owner or operator] fails to satisfy a judgment or award based on a determination of liability for bodily injury or property damage to third parties caused by ["sudden" and/or "nonsudden"] accidental releases arising from the operation of the above-identified tank(s), or fails to pay an amount agreed to in settlement of a claim arising from or alleged to arise from such injury or damage, the Guarantor, upon written instructions from the Department, must fund a standby trust in accordance with the provisions of WAC 173-360A-1050 to satisfy such judgment(s), award(s), or settlement agreement(s) up to the limits of coverage specified above.

4. Guarantor agrees to notify [owner or operator] by certified mail of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code naming Guarantor as debtor, within 10 days after commencement of the proceeding.

5. Guarantor agrees to remain bound under this Guarantee notwithstanding any modification or alteration of any obligation of [owner or operator] pursuant to chapter 173-360A WAC.

6. Guarantor agrees to remain bound under this Guarantee for so long as [local government owner or operator] must comply with the applicable financial responsibility requirements of Part 10 of chapter 173-360A WAC for the above identified tank(s), except that Guarantor may cancel this Guarantee by sending notice by certified mail to [owner or operator], such cancellation to become effective no earlier than 120 days after receipt of such notice by [owner or operator], as evidenced by the return receipt.

7. The Guarantor's obligation does not apply to any of the following:

a. Any obligation of [local government owner or operator] under a workers' compensation, disability benefits, or unemployment compensation law or other similar law;

b. Bodily injury to an employee of [insert: local government owner or operator] arising from, and in the course of, employment by [insert: local government owner or operator];

c. Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;

d. Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [insert: local government owner or operator] that is not the direct result of a release from an underground storage tank;

e. Bodily damage or property damage for which [insert owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of WAC 173-360A-1015.

8. Guarantor expressly waives notice of acceptance of this Guarantee by the Washington State Department of Ecology, by any or all third parties, or by [local government owner or operator].

I hereby certify that the wording of this Guarantee is identical to the wording specified in WAC 173-360A-1091 as such regulations were constituted on the effective date shown immediately below.

Effective date: \_\_\_\_\_

[Name of Guarantor]

[Authorized signature for Guarantor]

[Name of person signing]

[Title of person signing]

Signature of witness or notary:

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

#### NEW SECTION

#### **WAC 173-360A-1092 Appendix M—Local government guarantee with standby trust made by a local government.**

Guarantee made this [date] by [name of guaranteee entity], a local government organized under the laws of [name of state], herein referred to as Guarantor, to the Washington State Department of Ecology and to any and all third parties, and obliges, on behalf of [local government owner or operator].

#### *Recitals*

1. Guarantor meets or exceeds [select one: the local government bond rating test requirements of WAC 173-360A-1070, the local government financial test requirements of WAC 173-360A-1071, or the local government fund requirements of WAC 173-360A-1073].

2. [Local government owner or operator] owns or operates the following underground storage tank(s) covered by this Guarantee: [List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to

assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to WAC 173-360A-0200, and the name and address of the facility.] This Guarantee satisfies the requirements of Part 10 of chapter 173-360A WAC for assuring funding for [insert: "taking remedial action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the above-identified underground storage tank(s) in the amount of [insert dollar amount] per occurrence and [insert: dollar amount] annual aggregate.

3. Incident to our substantial governmental relationship with [local government owner or operator], Guarantor guarantees to Washington State Department of Ecology and to any and all third parties that:

a. In the event that [local government owner or operator] fails to provide alternate coverage within 60 days after receipt of a notice of cancellation of this Guarantee and the Washington State Department of Ecology has determined or suspects that a release has occurred at an underground storage tank covered by this Guarantee, the Guarantor, upon instructions from the Department must fund a standby trust fund in accordance with the provisions of WAC 173-360A-1050, in an amount not to exceed the coverage limits specified above.

b. In the event that the Department determines that [local government owner or operator] has failed to perform remedial action for releases arising out of the operation of the above-identified tank(s) in accordance with WAC 173-360A-0750, the Guarantor upon written instructions from the Department must fund a standby trust fund in accordance with the provisions of WAC 173-360A-1050, in an amount not to exceed the coverage limits specified above.

c. If [owner or operator] fails to satisfy a judgment or award based on a determination of liability for bodily injury or property damage to third parties caused by ["sudden" and/or "nonsudden"] accidental releases arising from the operation of the above-identified tank(s), or fails to pay an amount agreed to in settlement of a claim arising from or alleged to arise from such injury or damage, the Guarantor, upon written instructions from the Department, must fund a standby trust in accordance with the provisions of WAC 173-360A-1050 to satisfy such judgment(s), award(s), or settlement agreement(s) up to the limits of coverage specified above.

4. Guarantor agrees that, if at the end of any fiscal year before cancellation of this Guarantee, the Guarantor fails to meet or exceed the requirements of the financial responsibility mechanism specified in paragraph (1), Guarantor must send within 120 days of such failure, by certified mail, notice to [local government owner or operator], as evidenced by the return receipt.

5. Guarantor agrees to notify [owner or operator] by certified mail of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code naming Guarantor as debtor, within 10 days after commencement of the proceeding.

6. Guarantor agrees to remain bound under this Guarantee notwithstanding any modification or alteration of any obligation of [owner or operator] pursuant to chapter 173-360A WAC.

7. Guarantor agrees to remain bound under this Guarantee for so long as [local government owner or operator] must comply with the applicable financial responsibility requirements of Part 10 of chapter 173-360A WAC for the above identified tank(s), except that Guarantor may cancel this Guarantee by sending notice by certified mail to [owner or operator], such cancellation to become effective no earlier than 120 days after receipt of such notice by [owner or operator], as evidenced by the return receipt.

8. The Guarantor's obligation does not apply to any of the following:

a. Any obligation of [local government owner or operator] under a workers' compensation, disability benefits, or unemployment compensation law or other similar law;

b. Bodily injury to an employee of [insert: local government owner or operator] arising from, and in the course of, employment by [insert: local government owner or operator];

c. Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;

d. Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [insert: local government owner or operator] that is not the direct result of a release from an underground storage tank;

e. Bodily damage or property damage for which [insert: owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of WAC 173-360A-1015.

9. Guarantor expressly waives notice of acceptance of this Guarantee by the Washington State Department of Ecology, by any or all third parties, or by [local government owner or operator].

I hereby certify that the wording of this Guarantee is identical to the wording specified in WAC 173-360A-1092 as such regulations were constituted on the effective date shown immediately below.

Effective date: \_\_\_\_\_

[Name of Guarantor]

[Authorized signature for Guarantor]

[Name of person signing]

[Title of person signing]

Signature of witness or notary:

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

#### NEW SECTION

#### **WAC 173-360A-1093 Appendix N—Local government guarantee without standby trust made by a state.**

Guarantee made this [date] by [name of state], herein referred to as Guarantor, to the Washington State Department of Ecology and to any and all third parties, and obliges, on behalf of [local government owner or operator].

*Recitals*

1. Guarantor is a state.

2. [Local government owner or operator] owns or operates the following underground storage tank(s) covered by this Guarantee: [List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to WAC 173-360A-0200, and the name and address of the facility.] This Guarantee satisfies the requirements of Part 10 of chapter 173-360A WAC for assuring funding for [insert: "taking remedial action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the above-identified underground storage tank(s) in the amount of [insert: dollar amount] per occurrence and [insert: dollar amount] annual aggregate.

3. Guarantor guarantees to the Washington State Department of Ecology and to any and all third parties and obliges that:

a. In the event that [local government owner or operator] fails to provide alternate coverage within 60 days after receipt of a notice of cancellation of this Guarantee and the Washington State Department of Ecology has determined or suspects that a release has occurred at an underground storage tank covered by this Guarantee, the Guarantor, upon written instructions from the Department must make funds available to pay for remedial actions and compensate third parties for bodily injury and property damage in an amount not to exceed the coverage limits specified above.

b. In the event that the Department determines that [local government owner or operator] has failed to perform remedial action for releases arising out of the operation of the above-identified tank(s) in accordance with WAC 173-360A-0750, the Guarantor upon written instructions from the Department must make funds available to pay for remedial actions in an amount not to exceed the coverage limits specified above.

c. If [owner or operator] fails to satisfy a judgment or award based on a determination of liability for bodily injury or property damage to third parties caused by ["sudden" and/or "nonsudden"] accidental releases arising from the operation of the above-identified tank(s), or fails to pay an amount agreed to in settlement of a claim arising from or alleged to arise from such injury or damage, the Guarantor, upon written instructions from the Department, must make funds available to compensate third parties for bodily injury and property damage in an amount not to exceed the coverage limits specified above.

4. Guarantor agrees to notify [owner or operator] by certified mail of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code naming Guarantor as debtor, within 10 days after commencement of the proceeding.

5. Guarantor agrees to remain bound under this Guarantee notwithstanding any modification or alteration of any obligation of [owner or operator] pursuant to chapter 173-360A WAC.

6. Guarantor agrees to remain bound under this Guarantee for so long as [local government owner or operator] must comply with the applicable financial responsibility requirements of Part 10 of chapter 173-360A WAC for the above identified tank(s), except that Guarantor may cancel this Guarantee by sending notice by certified mail to [owner or operator], such cancellation to become effective no earlier than 120 days after receipt of such notice by [owner or operator], as evidenced by the return receipt. If notified of a probable release, the Guarantor agrees to remain bound to the terms of this Guarantee for all charges arising from the release, up to the coverage limits specified above, notwithstanding the cancellation of the Guarantee with respect to future releases.

7. The Guarantor's obligation does not apply to any of the following:

a. Any obligation of [local government owner or operator] under a workers' compensation disability benefits, or unemployment compensation law or other similar law;

b. Bodily injury to an employee of [insert local government owner or operator] arising from, and in the course of, employment by [insert: local government owner or operator];

c. Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;

d. Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [insert: local government owner or operator] that is not the direct result of a release from an underground storage tank;

e. Bodily damage or property damage for which [insert: owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of WAC 173-360A-1015.

8. Guarantor expressly waives notice of acceptance of this Guarantee by the Washington State Department of Ecology, by any or all third parties, or by [local government owner or operator].

I hereby certify that the wording of this Guarantee is identical to the wording specified in WAC 173-360A-1093 as such regulations were constituted on the effective date shown immediately below.

Effective date: \_\_\_\_\_

[Name of Guarantor]

[Authorized signature for Guarantor]

[Name of person signing]

[Title of person signing]

Signature of witness or notary:

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

**NEW SECTION****WAC 173-360A-1094 Appendix O—Local government guarantee without standby trust made by a local government.**

Guarantee made this [date] by [name of guaranteeing entity], a local government organized under the laws of [name of state], herein referred to as Guarantor, to the Washington State Department of Ecology and to any and all third parties, and obliges, on behalf of [local government owner or operator].

*Recitals*

1. Guarantor meets or exceeds [select one: the local government bond rating test requirements of WAC 173-360A-1070, the local government financial test requirements of WAC 173-360A-1071, or the local government fund requirements of WAC 173-360A-1073].

2. [Local government owner or operator] owns or operates the following underground storage tank(s) covered by this Guarantee: [List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to WAC 173-360A-0200, and the name and address of the facility.] This Guarantee satisfies the requirements of Part 10 of chapter 173-360A WAC for assuring funding for [insert: "taking remedial action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the above-identified underground storage tank(s) in the amount of [insert: dollar amount] per occurrence and [insert: dollar amount] annual aggregate.

3. Incident to our substantial governmental relationship with [local government owner or operator], Guarantor guarantees to the Washington State Department of Ecology and to any and all third parties and obliges that:

a. In the event that [local government owner or operator] fails to provide alternate coverage within 60 days after receipt of a notice of cancellation of this Guarantee and the Washington State Department of Ecology has determined or suspects that a release has occurred at an underground storage tank covered by this Guarantee, the Guarantor, upon written instructions from the Department must make funds available to pay for remedial actions and compensate third parties for bodily injury and property damage in an amount not to exceed the coverage limits specified above.

b. In the event that the Department determines that [local government owner or operator] has failed to perform remedial action for releases arising out of the operation of the above-identified tank(s) in accordance with WAC 173-360A-0750, the Guarantor upon written instructions from the Department must make funds available to pay for remedial actions in an amount not to exceed the coverage limits specified above.

c. If [owner or operator] fails to satisfy a judgment or award based on a determination of liability for bodily injury or property damage to third parties caused by ["sudden" and/or "nonsudden"] accidental releases arising from the operation of the above-identified tank(s), or fails to pay an amount agreed to in settlement of a claim arising from or alleged to arise from such injury or damage, the Guarantor, upon written instructions from the Department, must make funds available to compensate third parties for bodily injury and property damage in an amount not to exceed the coverage limits specified above.

4. Guarantor agrees that if at the end of any fiscal year before cancellation of this Guarantee, the Guarantor fails to meet or exceed the requirements of the financial responsibility mechanism specified in paragraph (1), Guarantor must send within 120 days of such failure, by certified mail, notice to [local government owner or operator], as evidenced by the return receipt.

5. Guarantor agrees to notify [owner or operator] by certified mail of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code naming Guarantor as debtor, within 10 days after commencement of the proceeding.

6. Guarantor agrees to remain bound under this Guarantee notwithstanding any modification or alteration of any obligation of [owner or operator] pursuant to chapter 173-360A WAC.

7. Guarantor agrees to remain bound under this Guarantee for so long as [local government owner or operator] must comply with the applicable financial responsibility requirements of Part 10 of chapter 173-360A WAC for the above identified tank(s), except that Guarantor may cancel this Guarantee by sending notice by certified mail to [owner or operator], such cancellation to become effective no earlier than 120 days after receipt of such notice by [owner or operator], as evidenced by the return receipt. If notified of a probable release, the Guarantor agrees to remain bound to the terms of this Guarantee for all charges arising from the release, up to the coverage limits specified above, notwithstanding the cancellation of the Guarantee with respect to future releases.

8. The Guarantor's obligation does not apply to any of the following:

a. Any obligation of [local government owner or operator] under a workers' compensation disability benefits, or unemployment compensation law or other similar law;

b. Bodily injury to an employee of [insert: local government owner or operator] arising from, and in the course of, employment by [insert: local government owner or operator];

c. Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;

d. Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [insert: local government owner or operator] that is not the direct result of a release from an underground storage tank;

e. Bodily damage or property damage for which [insert: owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other

than a contract or agreement entered into to meet the requirements of WAC 173-360A-1015.

9. Guarantor expressly waives notice of acceptance of this Guarantee by the Washington State Department of Ecology, by any or all third parties, or by [local government owner or operator].

I hereby certify that the wording of this Guarantee is identical to the wording specified in WAC 173-360A-1094 as such regulations were constituted on the effective date shown immediately below.

Effective date: \_\_\_\_\_

[Name of Guarantor]

[Authorized signature for Guarantor]

[Name of person signing]

[Title of person signing]

Signature of witness or notary:

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

#### NEW SECTION

#### **WAC 173-360A-1095 Appendix P—Local government fund—Letter from chief financial officer.**

I am the chief financial officer of [insert: name and address of local government owner or operator, or guarantor]. This letter is in support of the use of the local government fund mechanism to demonstrate financial responsibility for [insert: "taking remedial action" and/or "compensating third parties for bodily injury and property damage"] caused by [insert: "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"] in the amount of at least [insert: dollar amount] per occurrence and [insert: dollar amount] annual aggregate arising from operating (an) underground storage tank(s).

Underground storage tanks at the following facilities are assured by this local government fund mechanism: [List for each facility: the name and address of the facility where tanks are assured by the local government fund].

[Insert: "The local government fund is funded for the full amount of coverage required under WAC 173-360A-1015, or funded for part of the required amount of coverage and used in combination with other mechanism(s) that provide the remaining coverage," or "The local government fund is funded for five times the full amount of coverage required under WAC 173-360A-1015, or funded for part of the required amount of coverage and used in combination with other mechanism(s) that provide the remaining coverage," or "A payment is made to the fund once every year for seven years until the fund is fully funded and [name of local government owner or operator] has available bonding authority, approved through voter referendum, of an amount equal to the difference between the required amount of coverage and the amount held in the dedicated fund" or "A payment is made to the fund once every year for seven years until the fund is fully funded and I have attached a letter signed by the State Attorney General stating that (1) the use of the bonding authority will not increase the local government's debt beyond the legal debt ceilings established by the relevant

state laws and (2) that prior voter approval is not necessary before use of the bonding authority".]

The details of the local government fund are as follows:

Amount in Fund (market value of fund at close of last fiscal year): \_\_\_\_\_

[If fund balance is incrementally funded as specified in WAC 173-360A-1073 (3)(c), insert: Amount added to fund in the most recently completed fiscal year: \_\_\_\_\_]

Number of years remaining in the pay-in period: \_\_\_\_\_

A copy of the state constitutional provision, or local government statute, charter, ordinance or order dedicating the fund is attached.

I hereby certify that the wording of this letter is identical to the wording specified in WAC 173-360A-1095 as such regulations were constituted on the date shown immediately below.

[Date]

[Signature]

[Name]

[Title]

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

#### NEW SECTION

#### **WAC 173-360A-1096 Appendix Q—Certification of financial responsibility.**

[Owner or operator] hereby certifies that it is in compliance with the requirements of Part 10 of chapter 173-360A WAC.

The financial assurance mechanism[s] used to demonstrate financial responsibility under Part 10 of chapter 173-360A WAC is [are] as follows:

[For each mechanism, list the type of mechanism, name of issuer, mechanism number (if applicable), amount of coverage, effective period of coverage and whether the mechanism covers "taking remedial action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases."]

[Signature of owner or operator]

[Name of owner or operator]

[Title]

[Date]

[Signature of witness or notary]

[Name of witness or notary]

[Date]

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

**NEW SECTION****WAC 173-360A-1097 Appendix R—Certification of valid claim.**

The undersigned, as principals and as legal representatives of [insert owner or operator] and [insert name and address of third-party claimant], hereby certify that the claim of bodily injury [and/or] property damage caused by an accidental release arising from operating [owner's or operator's] underground storage tank should be paid in the amount of \$[\_\_\_\_].

[Signatures]

Owner or Operator

Attorney for Owner or Operator

(notary)

Date

[Signature(s)]

Claimant(s)

Attorney(s) for Claimant(s)

(notary)

Date

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

**WSR 18-15-088****PERMANENT RULES****HEALTH CARE AUTHORITY**

[Filed July 18, 2018, 8:49 a.m., effective August 18, 2018]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The agency is revising WAC 182-526-0284 and 182-526-0285 to be consistent with WAC 182-526-0290.

Citation of Rules Affected by this Order: Amending WAC 182-526-0284 and 182-526-0285.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 18-07-059 on March 15, 2018.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: July 18, 2018.

Wendy Barcus  
Rules Coordinator

**AMENDATORY SECTION (Amending WSR 17-05-066, filed 2/13/17, effective 3/16/17)**

**WAC 182-526-0284 Orders of default.** (1) An order of default may be entered when the appellant fails to attend a scheduled prehearing conference or hearing. The order of default will include ((an)) a notice of inquiry as to whether the appellant wants to petition to reinstate the hearing.

(2) The appellant may file a petition to vacate an order of default under WAC 182-526-0290.

(3) An order of default becomes a final order ((dismissing)) by operation of law, disposing of the appellant's request for a hearing under RCW 34.05.440 if:

(a) The appellant does not file a petition to vacate within twenty-one calendar days of the order being served (mailed) on the parties under WAC 182-526-0290 (2) and (5)(b); or

(b) If the appellant fails to appear at a prehearing conference scheduled to address the petition to vacate under WAC 182-526-0290 (3) and (4)(a).

(4) The health care authority or managed care organization action stands after an order of default becomes a final order.

(5) The appellant may seek judicial review of a final order of default to the superior court under WAC 182-526-0640.

**AMENDATORY SECTION (Amending WSR 17-05-066, filed 2/13/17, effective 3/16/17)**

**WAC 182-526-0285 Orders of dismissal.** (1) An order of dismissal may be entered when the appellant withdraws the request for hearing under WAC 182-526-0115.

(2) An appellant may file a petition (request) to vacate an order of dismissal under WAC 182-526-0290.

(3) An order of dismissal becomes a final order ((if)) by operation of law, disposing of the appellant's request for a hearing under RCW 34.05.440 if:

(a) The appellant does not file a petition to vacate the order within twenty-one calendar days of the order being served (mailed) on the parties under WAC 182-526-0290 (2) and (5)(b); or

(b) The appellant fails to appear at a prehearing conference scheduled to address the petition to vacate under WAC 182-526-0290 (3) and (4)(a).

(4) The health care authority or managed care organization action stands after an order of dismissal becomes a final order.

(5) The appellant may seek judicial review of a final order of dismissal to the superior court under WAC 182-526-0640.